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A HISTORY OF
THE AMERICAN PEOPLE

BY

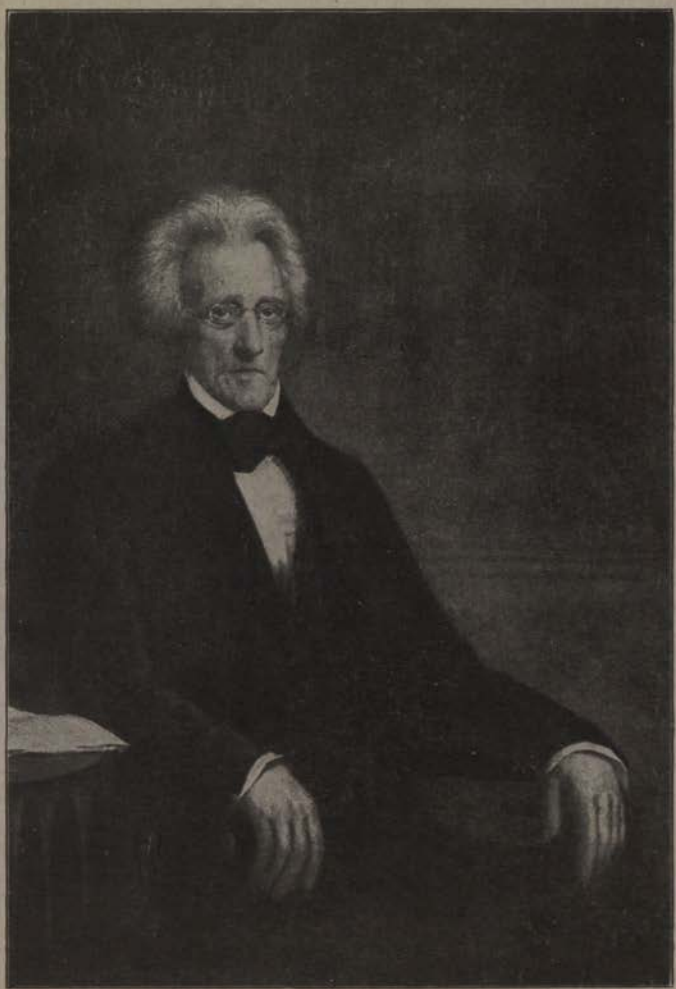
WOODROW WILSON, PH.D., LITT.D., LL.D.

DOCUMENTARY EDITION

IN TEN VOLUMES

VOL. VII

Critical Changes and Civil War



Andrew Jackson

(From a painting by Amans, 1840, in Sayles Hall, Brown University)

DOCUMENTARY EDITION

A HISTORY OF THE AMERICAN PEOPLE

BY

WOODROW WILSON, PH.D., LITT.D., LL.D.
PRESIDENT OF THE UNITED STATES

ENLARGED BY THE ADDITION OF ORIGINAL SOURCES AND LEADING DOCUMENTS OF AMERICAN HISTORY INCLUDING NARRATIVES OF EARLY EXPLORERS, GRANTS, CHARTERS, CONCESSIONS, TREATIES, REVOLUTIONARY DOCUMENTS, STATE PAPERS, PROCLAMATIONS AND ENACTMENTS

ILLUSTRATED WITH CONTEMPORARY VIEWS, PORTRAITS, FACSIMILES AND MAPS SELECTED FROM RARE BOOKS AND PRINTS

IN TEN VOLUMES
VOLUME VII

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A HISTORY OF THE AMERICAN PEOPLE

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from New York; a member of Congress from that state in 1795, serving until 1801, in which year he was chosen Mayor of New York City. Through the misconduct of a clerk Livingston became a public defaulter. At this period he went to New Orleans, and, meeting with great professional success, paid back every dollar he owed the government. He was the author of the Criminal Code for Louisiana; represented that state in Congress from 1823 to 1829; was United States Senator from 1829 to 1831; a member of Jackson's Cabinet from 1831 to 1833; and then minister to France until the close of 1835. He was the youngest brother of Chancellor Livingston 197

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WILLIAM LLOYD GARRISON.—From an engraving by H. W. Smith. Founder of the *Liberator* at Boston in 1831, a weekly newspaper and uncompromising opponent of slavery, which was discontinued in 1865, when the result for which he had devoted the best energies of his life had been effected by the Emancipation Proclamation of President Lincoln. Mr. Garrison founded, in 1832, the American Anti-Slavery Society, and was its president from that time until 1865 236

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ROBERT J. WALKER.—From *Harper's Magazine*, vol. xliv. Mr. Walker was Secretary of the Treasury during the Administration of President Polk, 1845–49. In 1857–58 he was governor of Kansas Territory, but resigned,

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being "unwilling," he said, "to aid in forcing slavery on that Territory by fraud and forgery" 298

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DAVID WILMOT.—From *Harper's Weekly*. He was representative in Congress from Pennsylvania (1845–1851). On August 8, 1846, while a bill authorizing the President of the United States to expend $3,000,000 in negotiations for peace with Mexico, by purchase of territory, was pending in Congress, Wilmot moved to add an amendment "That, as an express and fundamental condition to the acquisition of any territory from the republic of Mexico by the United States, neither slavery nor involuntary servitude shall ever exist in any part of said territory." This proviso was adopted by the House, but it failed of final action. It was the basis of the organization known as the Free-Soil party in 1848, and of the Republican party in 1856 308

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HOWELL COBB.—From an engraving by T. Doney made for the *Democrat Review*. Howell Cobb was a member of Congress from Georgia, 1843–51, Speaker of the Thirty-first Congress (1849), being chosen over Robert C. Winthrop, of Massachusetts. He was Governor of Georgia from 1851 to 1853; again returned to Congress in 1855, Secretary of the Treasury under President Buchanan (1857 to 1860). He supported the Confederate Cause in 1860–61, and was chosen president of the convention at Montgomery, Alabama, that organized the Confederate government, February 4, 1861. At the close of the war he opposed the reconstructive measures of the national government . 331

JOHN PARKER HALE.—From *Harper's Weekly*, April 24, 1858. Mr. Hale was United States Senator from New Hampshire, 1847–53, and counsel, in 1851, in the trials which resulted from the forcible rescue of the fugitive slave, Shadrach, from the custody of the United States Marshal in Boston. In 1852 he was nominated by the Free Soil party for President of the United States, with George W. Julian for Vice-President, and received 157,680 votes 334

A HISTORY OF THE AMERICAN PEOPLE

DOCUMENTARY EDITION

PART I.

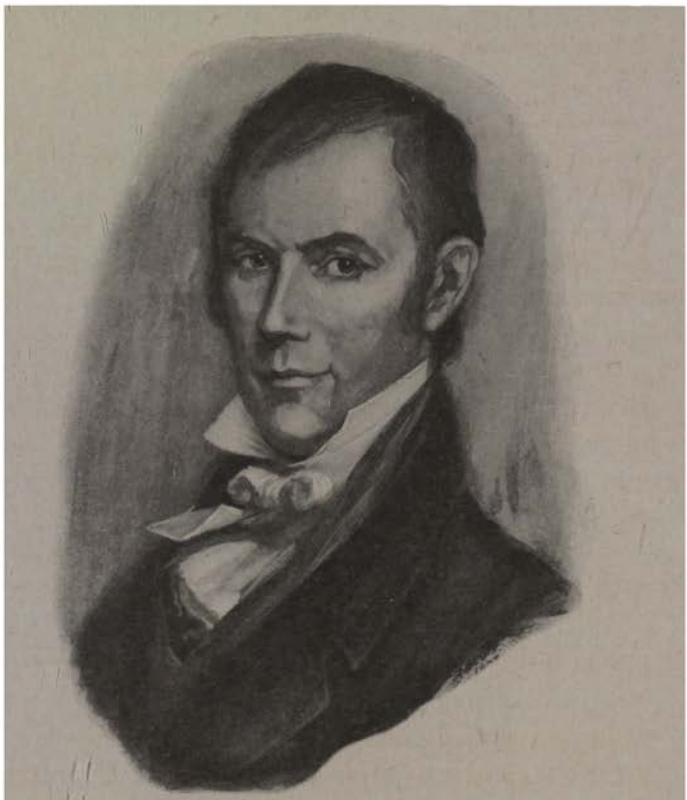
A HISTORY OF THE AMERICAN PEOPLE

CHAPTER I

THE DEMOCRATIC REVOLUTION

GENERAL JACKSON'S friends had reason to be satisfied. The effect they had wrought was indeed dramatic, revolutionary. They had cut a line of cleavage between epoch and epoch in the history of the country. They had broken, once for all, the "Virginian dynasty," "the succession of Secretaries," the leadership of trained and trusted men; had set aside every tradition of national politics; and had begun the administration of the executive office of the Union afresh upon their own plan. They had not, indeed, won secure control of either house of Congress. Parties were not fixed enough as yet for that. There were not a few "Democrats" who still retained a covert liking for the liberal construction their opponents put upon the constitution, and who upon occasion wavered in their votes, or incontinently went over to the ranks of the "National Republicans," whom Mr. Clay led. In the Senate there could be found, upon most questions, a majority against the new President. But the whole

atmosphere of affairs, the whole tone of the government changed, nevertheless, with the coming in of General Jackson. The new nation, its quality subtly



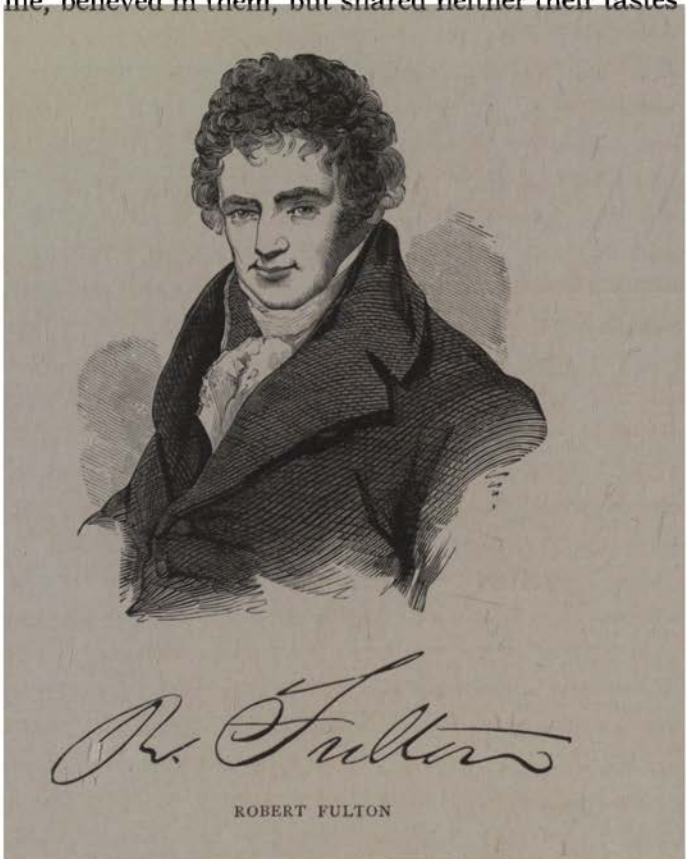
HENRY CLAY

altered, its point of view insensibly shifted by the movement into the West, had smiled with some degree of patient complacency upon Mr. Monroe, and had endured John Quincy Adams, but now for the first time chose after its own kind and preferred General Jackson

It was a second democratization of the government. And yet it differed radically from the first, which Mr. Jefferson had so shrewdly contrived. There was no kinship either in spirit or in method between Mr. Jefferson and this new hero of democracy. Mr. Jefferson had, indeed, expressed the greatest alarm "at the prospect of seeing General Jackson President." "He is," he said, "one of the most unfit men I know of for the place. He has had very little respect for laws or constitutions, and is, in fact, an able military chief. His passions are terrible. He has been much tried since I knew him, but he is a dangerous man." And had Mr. Jefferson lived to witness the result, he would hardly have altered his judgment. He had stood, for all he was so full of democratic doctrine, for conservative ways of political growth. General Jackson stood, it turned out, for personal government, party proscriptions, and the self-willed choices of personal power.

General Jackson professed to be of the school of Mr. Jefferson himself; and what he professed he believed. There was no touch of the charlatan or the demagogue about him. The action of his mind was as direct, as sincere, as unsophisticated as the action of the mind of an ingenuous child, though it exhibited also the sustained intensity and the range of the mature man. The difference between Mr. Jefferson and General Jackson was not a difference of moral quality so much as a difference in social stock and breeding. Mr. Jefferson, an aristocrat and yet a philosophical radical, deliberately practised the arts of the politician and exhibited oftentimes the sort of insincerity which subtle natures yield to without loss of essential integrity. General Jackson was incapable of arts or deceptions of any kind. He

was in fact what his partisans loved to call him, a man of the people, of the common people. Mr. Jefferson was only a patron of the people: appealed to the rank and file, believed in them, but shared neither their tastes



ROBERT FULTON

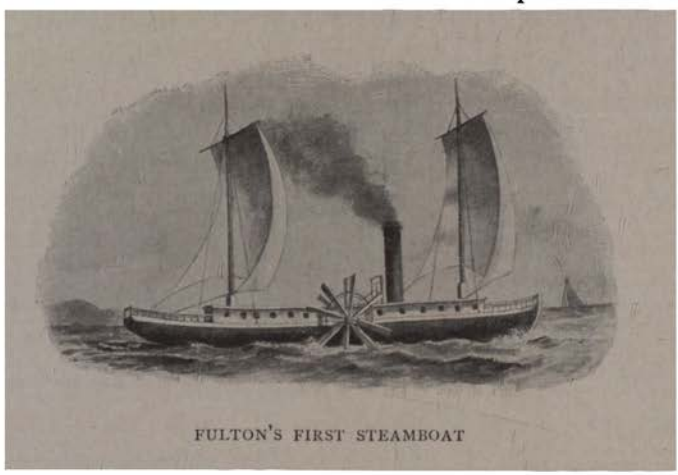
nor their passions. Moreover, the effective rank and file of the nation had changed since his day of ascendency. Step by step, one State following another, the old restrictions upon the suffrage, taken for granted in Jefferson's time, had been removed, until in almost every part of the Union the men of the masses had be-

come the stuff of politics. These men Jackson really represented, albeit with a touch of the knight and chivalrous man of honor about him which common men do not have; and the people knew it; felt that an aristocratic order was upset, and that they themselves had at last come to their own.

It must have seemed so in very fact at their President's inauguration. Washington filled with crowds come out of every quarter of the Union. All ceremony was overridden, all decorum cast aside. It seemed as if the place were in the possession of a good-natured mob, bent upon no serious mischief, but not to be restrained, not to be forbidden even the drawing rooms of the White House or the committee rooms and chambers of the Capitol. There was scarcely room enough in the streets for the passage of the procession which accompanied General Jackson to the place of inauguration. So great a crowd rushed, unbidden, into the White House, when General Jackson came to it from the Capitol, that he was himself forced against the wall of the reception chamber by its pressure, and was secured against serious danger only by a number of gentlemen linking arms and forming themselves into a barrier. Everywhere it was proclaimed that the people had come into possession of the government; that the domination of professional statesmen and politicians had been thrown off: that the rank and file were the victors, and that to the victors belonged "the spoils of the enemy."

That was unquestionably General Jackson's creed. Men who understood him could play upon him. He had allowed ill-informed men who believed it, and designing men who pretended to believe it, to persuade him that the government had not only been monopolized

but also corrupted by the politicians and statesmen who had hitherto controlled it; and he meant to purify it very radically. Among his advisers were men, like Mr. Martin Van Buren, of New York, who were past-masters in the art of party organization, and whose methods he willingly adopted for the establishment of the national power of his followers. They were methods which he could readily understand, and which seemed almost to fall within his own experience. He



FULTON'S FIRST STEAMBOAT

was a frontier soldier. Staunch comradeships, personal devotion, the close, unhesitating cohesion of friends, the intimate co-operation of men who knew and trusted one another by reason of joint efforts in a common affair, seemed to him the natural and proper basis for the discipline of a party no less than for the discipline and success of a frontier levy of volunteers. He knew and cared nothing for the orderly promotions of a regular service.

The suffrage had been thrown open in New York, as elsewhere, and Mr. Van Buren had become one of

a small group of astute men there who had supplied the new voters, crowding without concert to the polls, with the organization they could not contrive for themselves. These "Albany regents," as their opponents dubbed them, had effected their propaganda and their nominations, through local caucuses, and through conventions composed of delegates whom the caucuses selected. The lieutenants whom they used to assist them in organizing the caucuses, superintending the selection and the business of the conventions, and looking after every local detail of party action, they rewarded when they could with offices and nominations for themselves. It was this association of men who stood by one another and served one another as personal allies and friends that won the admiration of General Jackson. "I am no politician," he said; "but if I were one, I would be a New York politician." Pennsylvanian politics were of the same sort: the politics of intimate personal association. There, too, democracy on the great scale had submitted to the same organization, the same leadership of consummate, watchful managers. It was the new organization of democracy. General Jackson both understood and relished it. He saw nothing immoral in the promise that when he came into office he would reward his friends and punish his enemies. That, on the contrary, was a fundamental first principle of morals on the frontier. He firmly believed his friends to be the friends also of the government,—of the government as it had been and ought to be; his enemies, enemies of the government as well. The earnestness and sincerity with which he believed it, the frankness with which he avowed the belief, were interesting proofs of his conscious in-

tegrity. With all the intensity of his nature he wished for the welfare of the country, the advancement of the

GENERAL ANDREW JACKSON

Union, the success and permanency of its government; with all the terrible force of his will he purposed to secure both the one and the other. No doubt he had shown

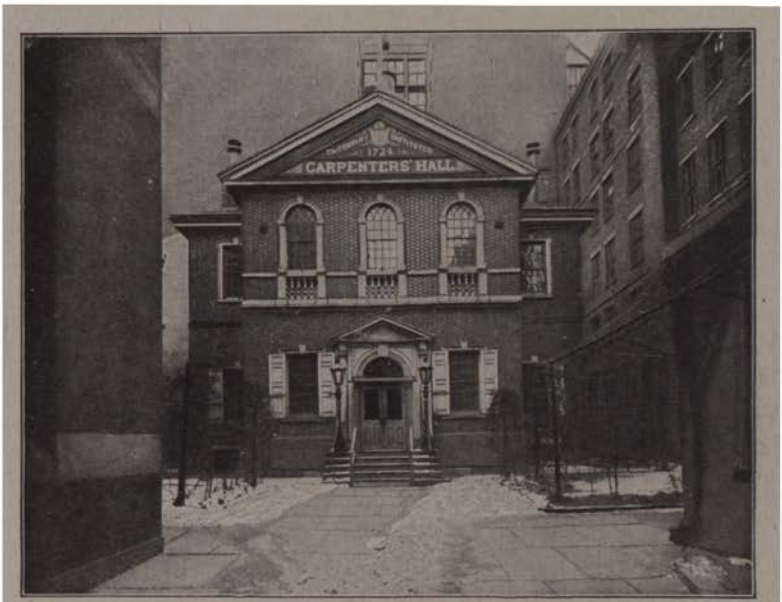
contempt for law, as Mr. Jefferson said, when he was upon the frontier, hampered by treaties and instructions; but his ideals were not those of the law-breaker. They were those of the ardent patriot. The peril of the country lay in the fact that he chose to disregard precedent and to interpret all laws for himself,—the law of the constitution no less than the law of the statute book.

And so there was almost a clean sweep of the federal offices to make room for General Jackson's friends, and secure proper persons to execute General Jackson's purposes. That the men dismissed had been long in office he deemed an additional argument for their discharge rather than an argument for their retention. Long terms of service he thought undemocratic. They slackened diligence, he believed, and made office-holders too carelessly secure. No doubt they fostered corruption, too. He did not himself conduct the proscription; he let those whom he trusted conduct it in his name. By the time the first Congress of his term assembled (December 7, 1829) it was estimated that fully a thousand federal officials had been removed, as against seventy-three at the most in all the previous history of the government. The Senate tried to stay the tide where it could, in its action on the nominations sent to it; but found the President imperious, irresistible, not to be gainsaid, and public opinion out-of-doors astonishingly ready to support and applaud him at every turn of the contest. "We give no reasons for our removals," said Mr. Van Buren; and apparently the mass of the voters wanted none. They were content to know that General Jackson was changing the government from top to bottom. Men without parts

or reputation of course got into office, in the general scramble. There could be little choice or deliberation in that wholesale process. The men appointed were for the most part men who had put themselves forward. There were very few men of any experience at all in federal administration, and many adventurers, to be found in the ranks of the new party. "Very few reputable appointments have been made," Mr. Adams, the ruthless General's predecessor in office, set down in his journal, "and those confined to persons who were indispensably necessary to the office." "The appointments are exclusively of violent partisans, and every editor of a scurrilous and slanderous newspaper is provided for."

It was only fair to remember that the new party drew of necessity upon its ranks, whether for ordinary officials or for leaders. If the minor office holders were new men, so were their chiefs also, who stood close about the President himself. The cabinet which General Jackson chose seemed conventional enough, indeed, for a party so recently made up. Mr. Van Buren had left the office of Governor of New York to become Secretary of State. He had been merely a local politician, no doubt, though he had served a term in the Senate, and had come but the other day into national prominence; but he was at least as well known as many another cabinet officer before him. The other heads of Departments, though even less generally known to the nation than he was, had played a public part in affairs, in Congress and out of it, and had been chosen for reasons familiar enough in politics. Major John H. Eaton, of Tennessee, was selected to be Secretary of War, because he was a trusted personal friend of the President's;

the Secretaries of the Treasury and of the Navy and the Attorney General owed their places to the fact that they were the friends of Mr. Calhoun, the Vice President, who stood at the front of the President's party in the South. The Postmaster General had been a candidate for the governorship of Kentucky in the Jackson in-



CARPENTERS' HALL, PHILADELPHIA

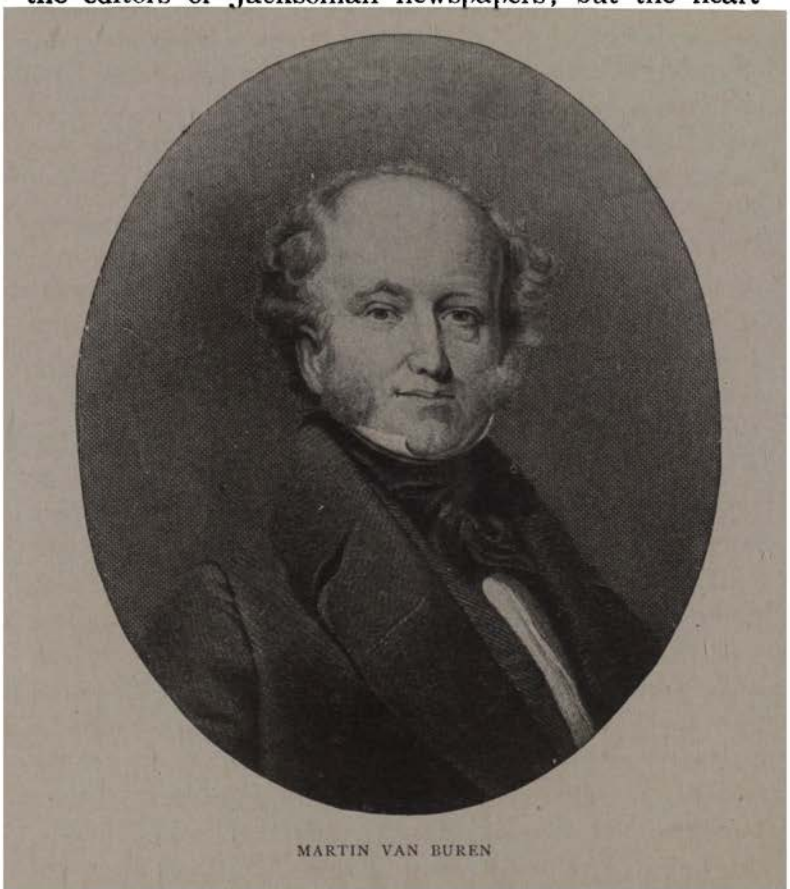
terest, and had been defeated by a nominee of the friends of Mr. Clay.

What was really singular and significant was, that these gentlemen did not, under General Jackson, form a real cabinet at all. The country presently learned that the President did not hold cabinet meetings: that he took counsel, when he felt in need of it, with private friends, some of whom had no recognized post or stand-

ing in the government at all. Chief among these were one William B. Lewis, of Tennessee, a kinsman and neighbor of General Jackson's, and one Amos Kendall, a Massachusetts man now identified with Kentucky. It was Major Lewis who, more than any other man, had first forced him into candidacy for the presidency, who had set the stage for him at every turn of his political career, who had set afoot, superintended, fomented, and with an infinite art and diligence brought successfully to a head the many influences, public and private, which were to bring him finally into office and to the leadership of his party. General Jackson consulted and used him without in the least realizing that he had in him a consummate master of the arts whereby opinion is made and individual men are set forward in their ambition. He had made Major Lewis Second Auditor of the Treasury; but Lewis was not a man who played for himself. He played for Jackson, and loved every subtle turn of the game: used his gifts of management like one who played for his own hand, and yet remained a man of honor and served his friend more than he served himself. Amos Kendall was a master of the art political, not in action, but upon paper. He had gifts as a writer which could be turned to account in the composition of the most serious state papers. He caught the impressive tone of public business and mastered its calm way of reasoning as readily as he caught the tones of partisan controversy and spent his force in its bitter energy. He could frame a significant innuendo or prepare an editorial for the party press that bit as deep as anything that Tom. Paine or William Cobbett could have written. He seemed a statesman or a mere partisan by turns; it was difficult to

tell which he was either by nature or by choice. He was perhaps each in turn; but nothing out of the closet.

There were others of the "Kitchen Cabinet" besides: the editors of Jacksonian newspapers; but the heart



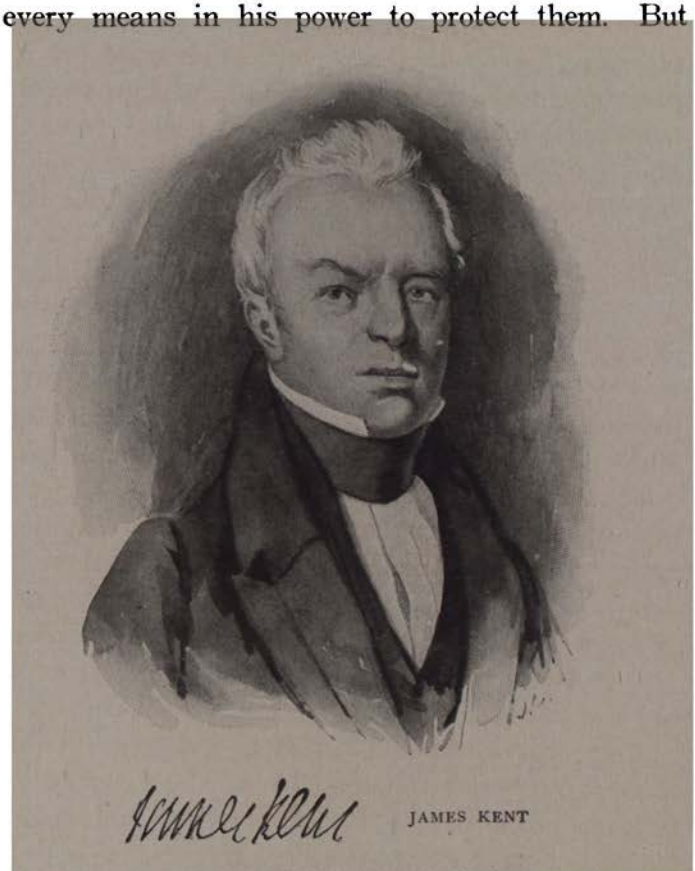
MARTIN VAN BUREN

of it lay in Major Lewis and Mr. Kendall. Mr. Van Buren and Major Eaton, of Tennessee, the Secretary of War, were freely admitted into this inner circle; but not as members of the cabinet, only as personal friends and confidants of the President.

And so a veritable personal government was set up, so far as the Executive and the discipline of the Executive's friends in Congress were concerned; and allegiance to General Jackson became the test of fidelity for every Democrat who wished to be admitted to the party's counsels. The President's mere audacity won many men to him, for the masses of the country loved bold individual initiative. His rugged honesty, his sincerity, his own power of devotion, his frank friendliness, his confiding faith in his friends won more. Towards women he showed the gracious, deferential courtesy of the man who would be every woman's knight and champion. Foreign ministers who had expected to find in him the rough frontiersman were amazed at his natural dignity and ease, the air almost of elegance and of majesty that hung about him because of his quiet self-respect, his grave and unaffected courtesy, and the striking sadness and reserve of his deep-set eyes. No President since Washington had so taken hold upon the imagination, and every month he remained in office his ascendency became the more assured.

It made a startling difference to the country. It broke the course of all settled policy, forced every question to square itself with the President's standards, altered the elements of parties. The country got its first taste of the effect to be wrought upon policy in connection with the troublesome question of the removal of the Indians from Georgia and Alabama to lands beyond the Mississippi. Georgia had got rid of the Creek Indians while Mr. Adams was President. Both Creeks and Cherokees held their Georgia lands under treaties with the United States such as the constitution explicitly authorized the President to negotiate; the

Creeks had relied upon the treaties and steadfastly refused to sell their lands or suffer themselves to be driven out of the State; and Mr. Adams had sought by every means in his power to protect them. But



Congress had supported him very lukewarmly, and Georgia had succeeded at last in extorting from the unwilling chiefs of the tribe terms which put their people forth into the West, where Congress was ready to provide for them. The Cherokees were not to be so cajoled or dealt with. They mustered thirteen thousand strong;

had settled to the occupations and learned the arts of peace; boasted a system of self-government and of orderly obedience to their own laws which seemed to promise, not extinction or decay or any decline of their power, but a great development and an assured permanency; and would not entertain any proposition whatever which involved the sale or relinquishment of the rich lands they occupied. General Jackson, however, unlike his predecessor, thought the State ought to be rid of them. Georgia and Alabama, therefore, relying on his countenance, extended their laws over the Indian country in despite of treaties; the President, when Georgia requested him to do so, withdrew the federal troops stationed there; and the Indians were obliged to yield. "I informed the Indians inhabiting parts of Georgia and Alabama," the President told Congress in his first message, "that their attempt to establish an independent government would not be countenanced by the Executive of the United States, and advised them to migrate beyond the Mississippi or to submit to the laws of those States." Life on the frontier had left him no patience to consider the rights of red men.

Their rights were duly tested in the courts. Three several times was the matter taken, on appeal, to the Supreme Court of the United States, and each time the court decided the question submitted to it in favor of the Indians, upholding the treaties and denying the right of any State, or any authority whatever, to violate or ignore them. But General Jackson would not enforce its decisions. His attitude towards the Indians was frankly that of the frontier soldier. They had no right, in his eyes, to stand in the way of the

white man. By the time the last of the decisions of the Supreme Court was rendered in the matter (1832)

JEREMIAH MASON

another presidential election was at hand and he was a candidate for re-election. He said that he would leave the question to the people,—such was his constitutional theory of right! The constitution did in-

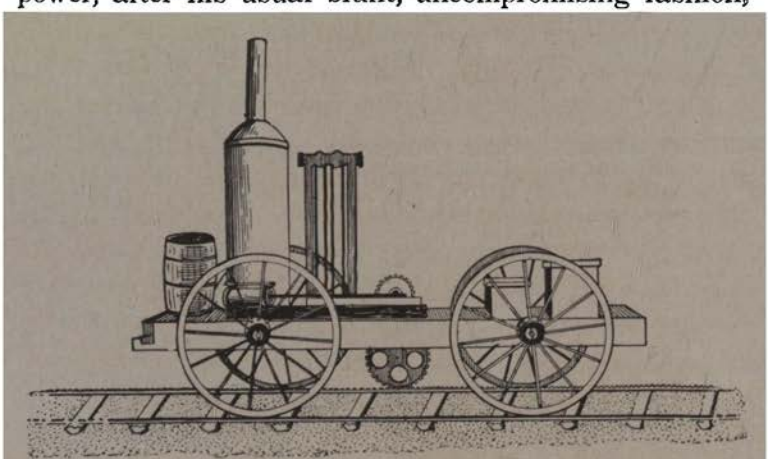
deed give the federal Executive the authority to negotiate treaties with the Indian tribes, and Congress the right to regulate commerce with them, as if they were to be treated in all respects like independent bodies politic, in no way subject to the jurisdiction of the separate States. But the constitution also explicitly commanded that no new State should be "formed or erected within the jurisdiction of any other State" without the express consent of the legislature of that State and of Congress; and the Cherokees were obviously in a fair way to create a virtually independent commonwealth within the State of Georgia should they remain. It was a nice point of law, which General Jackson should have recognized the right of the Supreme Court to decide. But with him his own judgment was more conclusive, and a vote of the people the solution of all doubts.

It was significant how quick the new democracy he stood for was to take fire against the courts and turn, by way of ultimate appeal, to the people in all things. In Mr. Jefferson's day also the courts had seemed the strongholds of Federalism, and the leaders of Congress had wished to see their judges removed at pleasure upon the address of the houses. Now they seemed again the barriers, the only barriers, set up against the people's will. Many an observant eye had remarked how dramatic a thing it was that General Jackson, like Mr. Jefferson, should take the oath of office from John Marshall, the steadfast champion of Federalist doctrine and of the reign of law under a constitution which was itself the supreme law of the land. When Mr. Jefferson took office John Marshall had but just come to his power, a man in his prime, the incoming President's junior by a dozen years. Now he was the new President's

senior by as many years, though General Jackson, for all his erect and slender height, was a gray veteran of sixty-two. The aged Chief Justice was as straight at seventy-four as the soldier to whom he administered the oath of office, and bore his years as well; but General Jackson stood, his years notwithstanding, for a new age coming in, the aged judge for an old order passing away. The fire that shone in the eyes of the old soldier burned hot against the authority that sat upon the quiet brow of the aged lawyer.

In the very inaugural address which he uttered that day of his coming into office the grizzled President threw out his challenge to the court, and made bold to give it upon a matter of graver moment for the whole country than the rights of Indian tribes even and the sacredness of the treaties which gave them a standing in the court. He doubted, he gave the country to understand, whether Congress had acted within its constitutional powers in creating the Bank of the United States. That had once, as everybody understood, been a debatable question; but the Supreme Court had given judgment upon it in the celebrated case of *McCulloch vs. Maryland* (1819), in which it had explicitly affirmed the right, as drawn by just inference from the undoubted powers of Congress; and since then it had been deemed a question settled once for all. But General Jackson regarded no question as settled which altered circumstances could reopen. The twenty-year charter of the Bank was not to run out, indeed, until 1836, a year which lay beyond his term; but a reconsideration of it was to come. Apparently he had no intention of going now beyond a mere preliminary expression of opinion in the matter.

He simply put this forth as a companion thought to his declaration of the conviction that the surplus revenue of the federal government ought to be distributed among the States, not spent for objects, like internal improvements, which the constitution, in his opinion, gave Congress no authority to undertake or pay for. He was merely setting forth at the outset of his time of power, after his usual blunt, uncompromising fashion,



MODEL OF THE JOHN STEVENS LOCOMOTIVE. THE FIRST IN AMERICA. 1825

what he conceived to be the true democratic creed in matters of national finance. Other more pressing matters called for first attention, and for action.

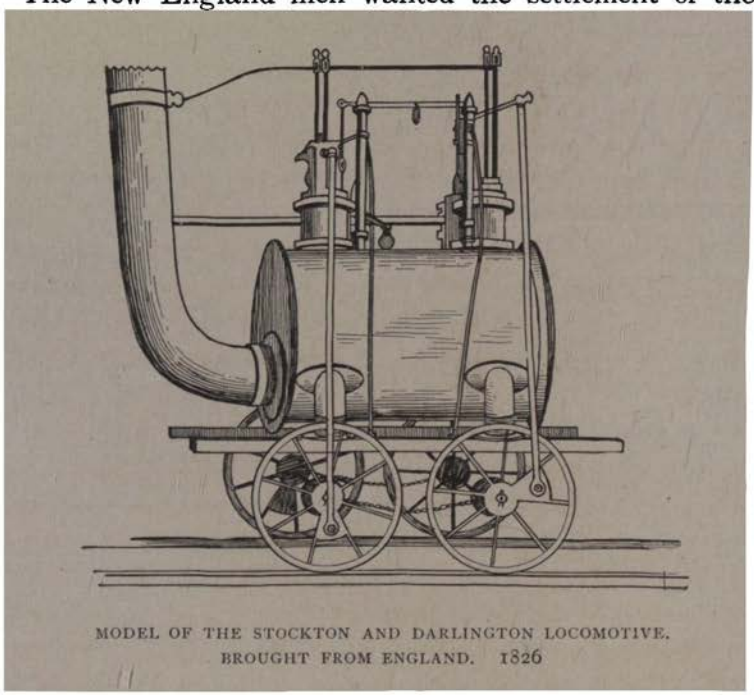
These initial declarations of opinion and intimations of policy on the part of the President were eminently satisfactory to the men of the South and West whose candidate he had been. Here were the views of strict construction for which they had looked. In his very first message he solemnly warned Congress "against all encroachments upon the legitimate sphere of state

sovereignty"; and conservative men, whose thought had been formed by Mr. Jefferson, drew about him with almost as much confidence as was shown by those who had the adventurous and aggressive spirit of the new age at their hearts and desired change.

But when the President was put to the test by the Carolinians for whom Mr. Calhoun had formulated the extreme doctrine of state rights, they suddenly saw him in another light. They then saw, what they might have seen at first, that he was of the West, not of the South. He stood, as all other western men did, for the principle that every community must have its own life in the free partnership it had formed, and its own unhindered, unbidden development, unchecked by the national government: for he believed that to be the end and object of the Union, to make the States secure of their individual development and set them forward in their own ways. But there was an infection of national feeling, too, upon the stirring frontier where he had been bred which no man could escape; a sense as of a people's life a-making upon a continental scale; an ardor for broad schemes and vast achievement, in bands united and backed by the nation's power. "The legitimate sphere of state sovereignty" did not, when projected there upon the prairies, encroach upon the equally legitimate sphere of the federal power. The two were inseparable parts of a single conception. No frontiersman reasoned subtly upon them: instinct and the spirit of conquest resolved all doubts and discountenanced all refinements. Argument was excluded. In any case General Jackson, as President, would have excluded it. To challenge the authority of the federal government now was to challenge his

own authority; and there need have been no doubt what he would do in that event.

The issue that was to be joined and settled was first drawn to the light, with painful vividness, by a debate in the Senate on the disposition of the western lands. The New England men wanted the settlement of the



MODEL OF THE STOCKTON AND DARLINGTON LOCOMOTIVE, BROUGHT FROM ENGLAND. 1826

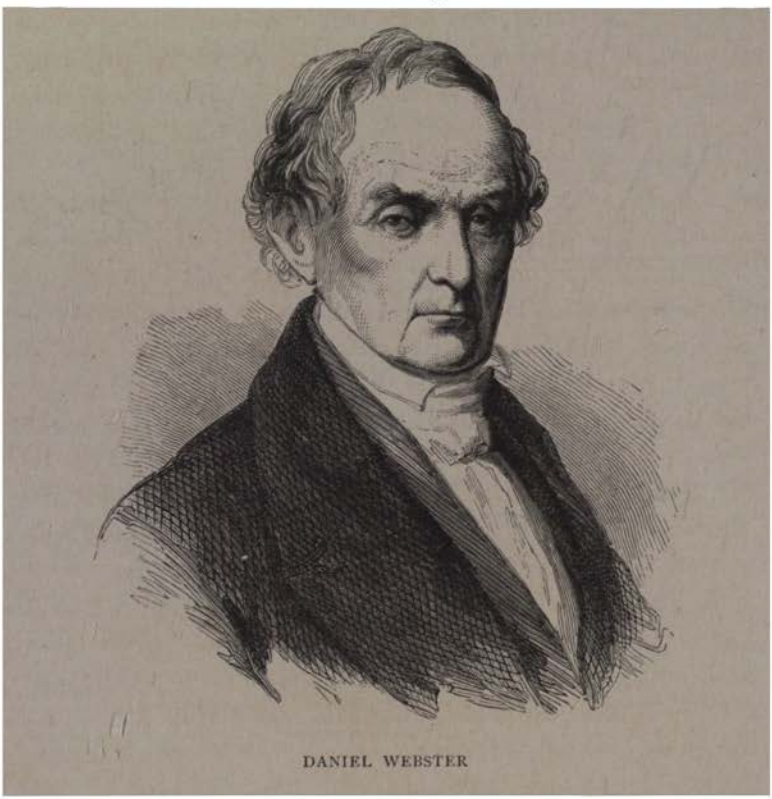
West held back as much as possible. So long as land was to be had there almost for the mere asking, at no cost except that of the journey and of a few farmer's tools and a beast or two for the plough, the active men of their own section, whom they counted on as skilled workmen in building up their manufactures, must be constantly enticed away by the score and hundred, to seek an independent life and livelihood in the West;

high wages, very high wages, must be paid to keep them, if indeed they could be kept at all; and the maintenance of manufactures must cost more than even protective tariffs could make good. Here was an issue between East and West. The tariff itself was an issue between North and South, and drew after it, when read into the question of the western lands, no less a matter than the extension of slavery and the domination of sections in the politics of the country. Heavy tariffs, which fostered manufactures in the States where there were no slaves, insured growth of wealth and population in the East and North, but left the South to stand still and gain nothing. If her people could not go into the West and build up slave states there to make good the altering balance of power in the Union, they must look to see all things go steadily against them.

All these critical matters crept inevitably, as it seemed, into the debate on the western lands; and the country was aroused by it almost as it had been aroused ten years before by the debates on the admission of Missouri. It turned upon a resolution to limit the sales of the western lands which Mr. Foot, of Connecticut, introduced in the Senate late in December, 1829.[1] Ordinary men could not have raised it to such a climax of interest; but the men engaged were not ordinary men. It was not Mr. Benton's hot protest that the men of New England should be always jealous of the growth and prosperity of the West that caught the ear of the country; it was the speeches of Mr. Hayne, of South Carolina, and Mr. Webster, of Massachusetts. The debate, as they handled it, swung abroad over the whole ground of the many closely related topics which lay upon the

[1] See page 147.

borders of the immediate question it concerned. Mr. Hayne was of the extreme school of South Carolina, and took occasion to expound at length the doctrine of nullification which his colleagues in that school had



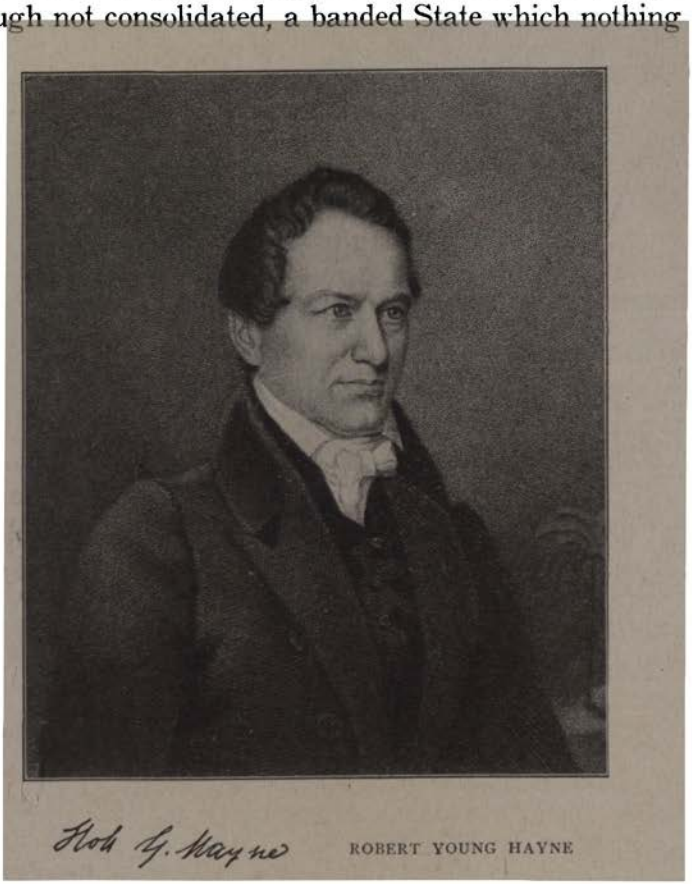
DANIEL WEBSTER

so lately perfected. It was out of the question, he said, that a State, when wronged by an exercise of federal power, should leave the decision of the matter of right entirely to the Supreme Court of the United States, part and organ of the very government whose power was challenged. The constitution was a compact, he maintained, the Union a free partnership; States

must stand ever upon the ground of the Kentucky and Virginia Resolutions and effect their own protection against deliberate and palpable excesses of power. Mr. Webster as fearlessly took the extreme ground of the opposite view. It was this splendid audacity on either side that quickened the pulses of all who listened, this hardy, intrepid pushing of the issue to its last analysis,—and that issue nothing less than the nation's destiny.

The debaters were already marked men. The Senator from South Carolina, though not yet forty, had won his laurels as a lad in the war of 1812, had been elected to the legislature of his State at twenty-three and made Speaker of its House at twenty-five; made his way as much by personal charm as by eloquence and a gift for business, had a grace and ardor in his speech which won all men's attention and liking, wore always the air of a man of honor and high spirit, and used his singular powers of persuasion with a fine force of conviction. Daniel Webster, his opponent, had first come into Congress from New Hampshire, as the war with England was drawing to a close (1813), and then, upon a change of residence, had been sent first to the House (1823), finally to the Senate (1827), from Massachusetts, and was now at forty-eight one of the most noticeable figures of the country, an orator and constitutional lawyer whose mastery every man acknowledged. Twice he had taken his stand, with a force of argument it would have been difficult to enhance, against protective tariffs; but, seeing his constituents deliberately and persistently stake their whole economic fortune as a community upon them, he at last had yielded, and was now the accepted champion of New England against

the violent onset of the South. He replied to Mr. Hayne that the constitution was no compact, the Union no mere dissoluble partnership, but a government, sovereign though not consolidated, a banded State which nothing



Robt Y. Hayne ROBERT YOUNG HAYNE

but revolution could dissolve, its laws to be set aside or resisted only by acts of treason.

No such charm hung about the person of Mr. Webster as that which made Mr. Hayne so excellent an image of the courtly gentleman and the persuasive orator.

Alike in person and in utterance, Mr. Webster was compact, not of grace, but of force. Mr. Hayne's sentences rode high, upon rhetoric that sought often an adventurous flight; Mr. Webster used words as if he meant only to clarify and strengthen the thoughts he touched and cared nothing for cadence or ornament. And yet he spread them in ranks so fair that they caught and held the eye like a pageant. Beauty came upon them as they moved as if out of the mere passion of the thought rather than by the design of the orator. And he himself gave to the eye, as he stood, in his own person the same image of clean-cut strength, beautiful only by reason of its perfect action, so square was he, massive, and indomitable, and with a head and face whose mass, whose calm breadth above the deep-set, slumbrous eyes, seemed the fittest possible throne for the powers he displayed. There was imagination wrought into all that he said, but not the imagination of the rhetorician. Mr. Hayne's speech seemed to those who heard it worthy of the great reply it had called forth; but the country did not read it as it read what Mr. Webster had said. That was everywhere printed and read; and as the slow mails carried it forth it was as if the national spirit had suddenly been cried wide awake by its thrilling sentences. It was not the mere reasoner who won this triumph: reason was here touched with fire. The imagination of every man who could see the vision of a people united, indivisible, bound in sacred concord, was taken captive by these sonorous periods; the conviction of every man who saw the task and destiny of the nation as a whole was confirmed and heartened and made glad. There was magic in the printed words, as there was magic in the thrilling voice and

the magnificent presence of the man himself, in his massive stature and Olympian head, and in his eyes, burning dark with steady fire within their deep covert.

There was no such magic in Mr. Hayne's speech: only the force of argument and of an able, clear-thinking man in earnest. Mr. Webster had taken new ground. The men of the first generation of federal statesmen had not spoken thus of the constitution, at whose conception and establishment they had been present. They had admitted that it was an experiment, though they had hastened at once to push it, if they could, beyond its experimental stage. No man had attributed treason to the authors of the Kentucky and Virginia Resolutions, whose language Mr. Calhoun and Mr. Hayne now revived. Every man who felt the power and the hope that were in the spirit of nationality as the men of the West did, as the constructive statesmen did who had stood with Washington and Hamilton in their generation, and with the young war enthusiasts who cried bravo to Mr. Madison in the war with England in theirs, protested very hotly when New England men talked of disunion, first because of the purchase of Louisiana, and then because of the embargo. But they protested, not as against rebellion; they protested as against mad folly, rather, and narrow selfishness: as against those who would mar a great history to push a sectional interest. Not until a whole generation had gone by from the making of the government did this new doctrine of nationality which Mr. Webster so eloquently and convincingly preached get its currency: this doctrine of a national existence based, not upon sentiment and agreement, but upon an imperative fundamental law.

TERRITORIAL ACQUISITIONS OF THE UNITED STATES, 1783-1853.

SPEECH

OF

DANIEL WEBSTER,

IN REPLY TO

MR. HAYNE, OF SOUTH CAROLINA:

THE RESOLUTION OF MR. FOOT, OF CONNECTICUT,

RELATIVE TO

THE PUBLIC LANDS,

BEING UNDER CONSIDERATION.

DELIVERED IN THE SENATE, JANUARY 26, 1830.

WASHINGTON:

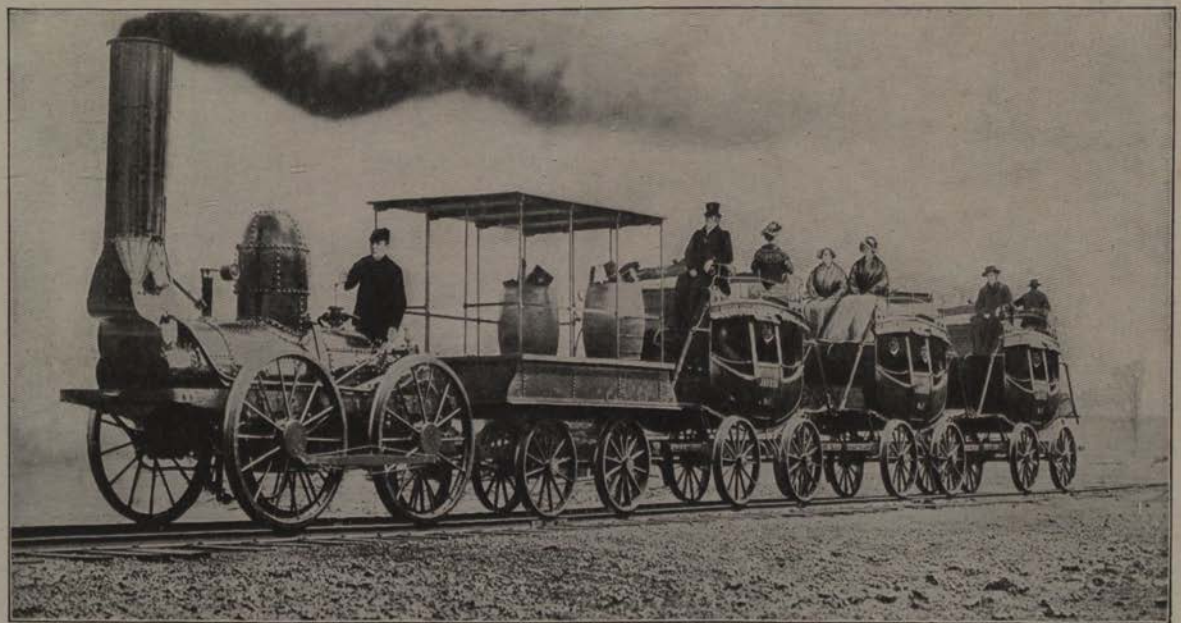
PRINTED BY GALES & SEATON.

1830.

TITLE-PAGE OF SPEECH OF DANIEL WEBSTER

Here again, as in the broadening of the suffrage and the coming in of the day of pure democracy which had brought General Jackson to the saddle with its dawn, the subtle force of national expansion moved and brooded upon the face of all things. The vast spread and movements of a people, the growth and interlacings of industry, the springing up of States come from the loins of the Union itself, all the visible increase of peaceful empire bred this spirit as of a nation,—no longer merely confederated, a nation knit and united for a common history of achievement. General Jackson, coming from the frontier, where this mighty force of nationality was visibly afoot, seemed to embody the new spirit of power in his rough, imperious sense of a right, as President, to override and command. Mr. Webster, though no friend of Jackson's, clothed what was in effect the same conception in terms of statesmanship and law. Under his touch the constitution seemed to partake of the growth which it had only engendered. It was of necessity, as he read it, no mere document, but a vehicle of life. Its sanctions could be made to cover every change that added to the unity or the greatness of the nation. Its quiet phrases could always be heard to speak the spirit of the times.

But what of those parts of the nation which had kept to the old models of federal life, which did not change, and would accept no law but that which read as it had always read since they were nurtured? The South had had little part or lot in the transformations of the new age. Her life was unaltered from of old. She lived and thought as she had always lived and thought. The Union was still the same to her that it had been to all the States alike in that first generation whose



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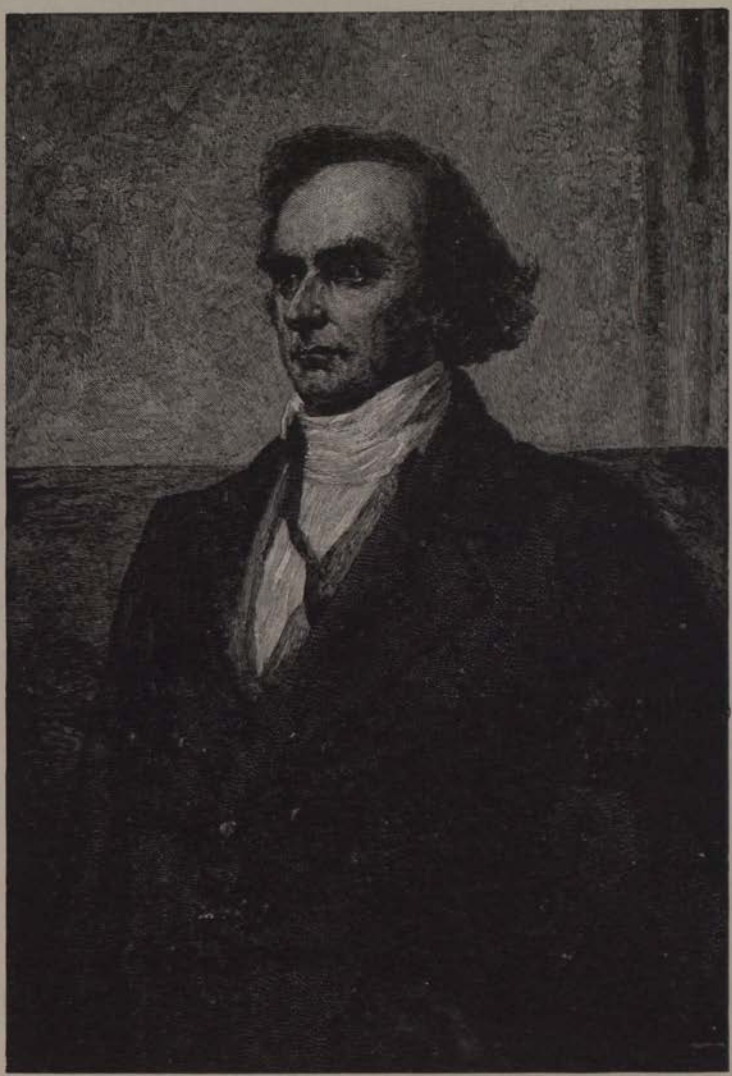
THE DE WITT CLINTON TRAIN WHICH RAN IN 1830 BETWEEN ALBANY AND SCHENECTADY

life and thought she kept. There had been no amendment of the fundamental law. Could the law change because men's thoughts had changed and their interests? No doubt, in her reaction against what she saw afoot, she stiffened the old doctrines and exaggerated them. Mr. Madison, who had drafted the Virginia Resolutions of '98, rejected very warmly the nullification doctrines of Mr. Calhoun and Mr. Hayne, not a little stirred and agitated in his quiet retirement at Montpellier by this new threat of disunion. Any doctrine would have worn a look of heightened rigor stated in Mr. Calhoun's clear, uncompromising way, and probably no man of the elder generation, had he been willing to formulate it at all, would have stated it so absolutely. The exigency and the sudden passion of opposition had given it this sharp and novel phrase. Mr. Webster, with characteristic genius, had met it with its opposite, as sharp and uncompromising, the ideal for which the men of the constitutional convention had prayed and which since their day had sprung into life while no man observed.

The times seemed to bring all things to an issue. No doctrine which touched practice so nearly could very long remain a thing of theory while General Jackson was on the field of action, and the advocates of nullification were of no mind to stop with the debate on the western lands. On April 13, 1830, the leading Democrats at Washington celebrated Mr. Jefferson's birthday by a formal banquet, to which the President was bidden. They took their cue from Mr. Calhoun and the southerners, and the toasts they gave smacked shrewdly of nullification. When the President saw their drift he got to his feet and bluntly proposed this



Daniel Webster

DANIEL WEBSTER

sentiment as his own: "Our federal Union: it *must* be preserved." "Liberty, dearer than the Union," cried the Vice President, in retort; but retort only hardened the President's temper; and Mr. Calhoun presently proved the least likely person in the country to be able to soften it. The very month that followed that memorable banquet General Jackson learned for the first time that Mr. Calhoun, who had been Secretary of War

BELL'S STEAMBOAT COMET, 1812

during his campaign against the Seminoles in 1818, had emphatically condemned his unauthorized capture of Pensacola as a wanton act of war against Spain, and had demanded an official investigation of it, with a view to its repudiation. Hitherto he had deemed Mr. Calhoun his friend; now he deemed him basely deceitful for having played his friend after such conduct in cabinet against him. He could not separate official action in such a matter from personal enmity; and no explanation that Mr. Calhoun could make did

more than increase his bitter anger. He turned from all who followed or consorted with the South Carolinian.

Before another year was out he had reconstructed his cabinet, to purge it of Mr. Calhoun's friends, to constitute it of men really in his confidence; partly also to discipline those members of the first cabinet who had failed to satisfy him in a social quarrel. The ladies of the cabinet circle refused recognition to Mrs. Eaton, the wife of the Secretary of War, deeming her reputation not unimpeachable. General Jackson believed her innocent of their charges,—was ready, indeed, to believe any woman innocent, as his own wife had been, against whom cruel things had been said unjustly; and was glad to show his resentment against Mrs. Eaton's enemies by putting the men forth from his counsels whose wives had slighted her against his wishes.

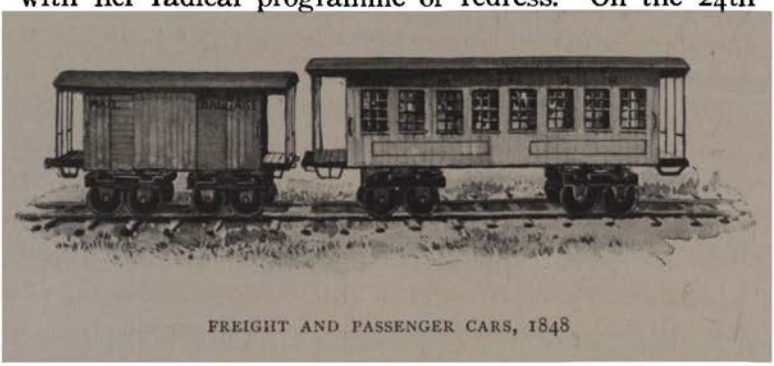
The breach between the President and Mr. Calhoun was a serious sign of the times. It not only embittered the President, it also cut all party ties for Mr. Calhoun, and set him free to work out as he pleased the opposition of his State to the burdensome tariff of 1828. It also made Mr. Calhoun's theories of nullification seem all the blacker, all the more like treason, to the unforgiving old soldier, sure always of being and of having been in the right. It freed Mr. Calhoun and his friends from entangling alliances. They moved the straighter towards their goal,—the vindication of the rights of the "staple States" against the policy of federal tariffs. The hopes of 1828 had been dissipated and the clash of sectional parties was at hand. In 1832 Congress, willing to divert the rising storm by moderate concessions, passed a new tariff Act, substituting for the "abominations" of 1828 a schedule of duties substan-

tially the same as those of 1824. But the new measure, like the old, yielded nothing of the principle of protection, and the South Carolinian leaders were in a humor now to contest the principle itself and have done with it.

The year 1832 brought the season in which choice was once more to be made of a President, and other matters waited a little until the choice should be certainly known. A novel variety was lent to the field of contest by the entrance of a new party. In 1826 one William Morgan, of northwestern New York, had advertised a book which should make known the secrets of Freemasonry, and had been kidnapped and was never seen again. Popular indignation had fixed upon the society of Freemasons itself as responsible for the crime, and an anti-Masonic party had sprung up whose object it was to keep Freemasons out of places of public trust. It had spread with surprising stir and persistency from State to State, and in September, 1831, it summoned a national convention of its partisans to display its strength and name candidates of its own for the presidency and vice presidency. The regular parties followed its cue. They also chose delegates out of the several States to meet in nominating conventions and put their candidates in the field by formal vote. The National Republicans nominated Mr. Clay, now leader of the Senate and unquestioned leader of the party. The Democrats nominated General Jackson, as of course, for a second term, and with him, for Vice President, not Mr. Calhoun, but his own chosen lieutenant, Mr. Martin Van Buren. The vote of the electors was decisive, as before. But six States voted for Mr. Clay (Massachusetts, Rhode Island, Connecticut, Delaware,

Maryland, and Kentucky); seventeen voted for General Jackson. Vermont gave her votes to the candidates of the Anti-Masons. The electors of South Carolina, chosen as always by the legislature, held punctiliously off from all parties and voted for candidates of their own.

The election over, General Jackson once more chosen, her party ties broken, her principles of opposition still unsanctioned and untested, South Carolina proceeded with her radical programme of redress. On the 24th



FREIGHT AND PASSENGER CARS, 1848

of November (1832) a state convention, summoned for the purpose and formed upon the model of a constitutional convention, adopted and promulgated a formal Ordinance of Nullification,[1] which declared the tariff Acts of 1828 and 1832 null and void and without force of law within the jurisdiction of South Carolina, and gave solemn warning to the rest of the country that any attempt on the part of the federal government to enforce the nullified laws within her limits would sever South Carolina's connection with the Union and force her to organize a separate government. The legislature of the State immediately took steps looking towards a resumption of some of the powers before for-

[1] See page 180.

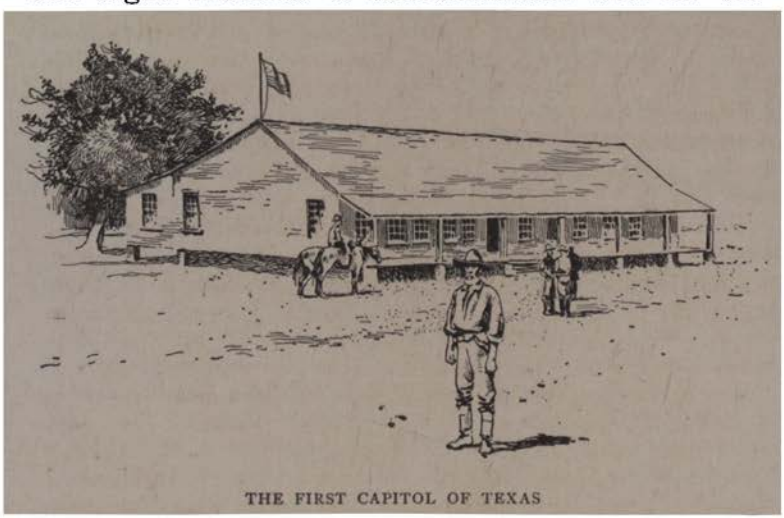
mally surrendered to the Union, and provided for putting the State in readiness to resist coercion by force of arms. Mr. Hayne was recalled from Washington to become governor of the State; and Mr. Calhoun resigned the vice presidency to take his place upon the floor of the Senate, that he might there contest every inch of the ground in debate.

The President acted as every one who really knew him knew that he would act. Opposition itself would in any case have been sufficient incitement to action; but now the tonic of the election was in his veins. The natural, straightforward, unhesitating vigor of the man dictated what should be done. "Please give my compliments to my friends in your State," said the imperious old soldier to a member of the House from South Carolina who asked his commands, "and say to them that if a single drop of blood shall be shed there in opposition to the laws of the United States, I will hang the first man I lay my hand on engaged in such treasonable conduct, upon the first tree I can reach." No one doubted that he meant what he said. Before South Carolina's convention met he had instructed the collector of the port of Charleston to collect the duties, resistance or no resistance; and when the Ordinance of Nullification reached him he replied to it with a proclamation whose downright terms no man could misread. For a little space he argued; but only for a little. For the most part he commanded.[1] "The laws of the United States," he said, "must be executed. I have no discretionary power on the subject,—my duty is emphatically pronounced in the constitution. Those who told you that you might peacefully prevent their execution deceived you. . . . Their object is disunion, and dis-

[1] See page 187.

union by armed force is treason." It was the doctrine of Webster in the mouth of a soldier. Congress voted the President full power to deal with the crisis as circumstances should demand.

Even then South Carolina did not flinch or draw back; but men who loved peace pressed forward on both sides to effect a compromise. Mr. Clay planned and urged measures of accommodation with all the



THE FIRST CAPITOL OF TEXAS

skill and ardor and persuasiveness which made him so great a master of men, and the tariff which was a thorn in South Carolina's side, though not in principle abandoned, was radically modified. A schedule of progressive annual reductions was agreed upon (March, 1833) which should by July, 1842, bring practically all duties to the uniform rate of twenty *per cent.* The Ordinance of Nullification was first suspended, then repealed; and the conflict between the States and the Union was for a little while put off.

The principal general *authorities* for the interesting events covered by this chapter are the second volume of Schouler, the first and second volumes of Von Holst, the fourth volume of Tucker, the fourth volume of Bryant and Gay; A. W. Young's *The American Statesman;* R. McK. Ormsby's *History of the Whig Party;* Edward Stanwood's *History of the Presidency;* Alexander Johnston's *History of American Politics;* James Parton's *Life of Andrew Jackson;* William G. Sumner's *Andrew Jackson* in the *American Statesmen Series;* Edward M. Shepard's *Martin Van Buren,* in the same series; Carl Schurz's *Henry Clay,* in the same series; Calvin Colton's *Life and Times of Henry Clay;* George Ticknor Curtis's *Life of Daniel Webster* and *Life of James Buchanan;* John T. Morse's *John Quincy Adams* and *Abraham Lincoln* in the *American Statesmen Series;* and Anson D. Morse's *Political Influence of Andrew Jackson* in the first volume of *The Political Science Quarterly.* With these are to be placed, as general authorities for this, that, or the other special phase or aspect of the time and its affairs, Jabez D. Hammond's *History of Political Parties in the State of New York;* Arthur Holmes's *Parties and their Principles;* Byrdsall's *History of the Loco Foco, or Equal Rights, Party;* John McGregor's *Progress of America;* F. W. Taussig's *History of the Tariff;* Henry A. Wise's *Seven Decades of the Union;* Alexander H. Stephens's *Constitutional View of the War Between the States;* the admirable articles on the several topics of American history during these years by Alexander Johnston in Lalor's *Cyclopaedia of Political Science, Political Economy, and United States History;* D. F. Houston's *Critical Study of Nullification in South Carolina* (the third volume of the *Harvard Historical Studies*); Frederick Law Olmsted's *Cotton Kingdom;* the second volume of W. W. Story's *Life of Joseph Story;* Henry C. Lodge's *Daniel Webster,* H. Von Holst's *John C. Calhoun,* Theodore Roosevelt's *Thomas H. Benton,* and A. C. McLaughlin's *Lewis Cass* in the *American Statesmen Series;* James Bryce's *Predictions of Hamilton and De Tocqueville* in the fifth volume of the *Johns Hopkins Studies in Historical and Political Science;* Lucy M. Salmon's *History of the Appointing Power;* and E. C. Mason's *Veto Power* (first volume of the *Harvard Historical Studies*).

The chief *sources* are the *Register of Debates* and *Congressional Documents; The Congressional Globe,* which begins with these years; Thomas H. Benton's *Abridgment of the Debates of Congress; The Statesman's Manual,* vol. II.; *Niles's Register,* volumes XXXV.-XLIV.; the *Tenth Census, Population;* the first volume

of Alexander Johnston's *Representative American Orations;* F. W. Taussig's *State Papers and Speeches on the Tariff;* the *American State Papers;* Josiah Quincy's *Figures of the Past;* George Tucker's *Progress of the United States in Fifty Years;* John Trumbull's *Autobiography;* Amos Kendall's *Autobiography;* Alexis de Tocqueville's *Democracy in America;* S. G. Goodrich's *Recollections of a Lifetime;* Hugh McCulloch's *Men and Measures of Half a Century;* Nathan Sargent's *Public Men and Events;* John Quincy Adams's *Memoirs;* J. A. Hamilton's *Reminiscences; Men and Events at Home and Abroad;* Thomas H. Benton's *Thirty Years' View;* Ben. Perley Poore's *Perley's Reminiscences;* Mrs. Chapman Coleman's *Life of John J. Crittenden;* Basil Hall's *Travels in North America in the Years 1827 and 1828;* John Finch's *Travels in the United States and Canada* (1833); Mrs. Trollope's *Domestic Manners of the Americans;* Michael Chevalier's *Society, Manners, and Politics in the United States* (1834–1835); Harriet Martineau's *Society in America* (1834–1836); Seba Smith's *Letters of Major Jack Downing* (satirical); Martin Van Buren's *Inquiry into the Origin and Growth of Political Parties in the United States;* General Court of Massachusetts, *State Papers on Nullification;* the *Letters, Speeches,* and *Works* of the leading public men of the day.

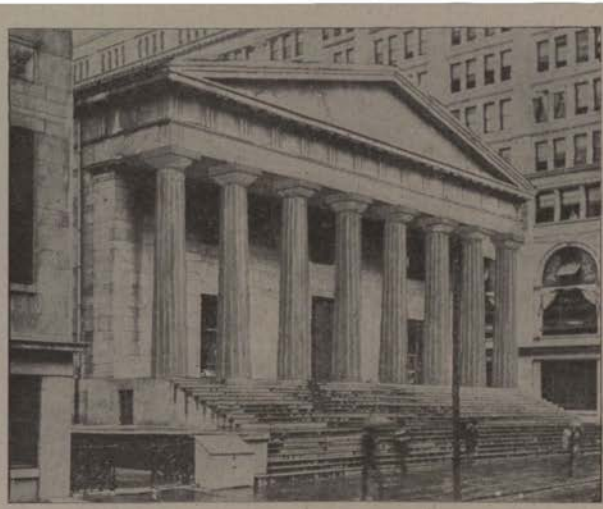
CHAPTER II

THE BANK AND THE TREASURY

AGAIN in 1832, as in 1828, it had been a man rather than a party that had won the presidential election. The real issue of the contest had been the re-election or rejection of General Jackson, upon his record as President and political leader. Although he took the result as a verdict against South Carolina, as a verdict against every one who withstood his authority either as man or as President, the nullification issue had not been made a test of doctrine or policy by either party. It was passed by, as if politicians wished to ignore it. So far as it was a contest concerning policy at all, and not a mere attack of the conservative forces of the country upon General Jackson himself as a radical and the author or spokesman of all revolutionary error, the contest centred upon the question of the Bank. It was the President's hostility to the United States Bank that was the Opposition's chief item of indictment against him. They attacked him also, it is true, for his unfriendly attitude towards the protective system and for his unwillingness to allow liberal outlays to be made for internal improvements. But he had in fact been more tractable than they had expected in those matters. He had really suffered Congress to go its own way in adjusting the tariff, and had yielded now and again to its ardor for spend-

ing money out of the federal treasury for the improvement of harbors and for the prosecution of other public works which promised to result in a general benefit to commerce. Only on the question of the Bank had he stood stubborn and forced the fighting.

The charter of the Bank was not to run out until 1836. It had not been necessary or wise to force the



THE OLD UNITED STATES BANK, NOW THE CUSTOM HOUSE, PHILADELPHIA

question of its renewal to an issue in 1832, to be confused with the question of General Jackson's popularity and personal prestige. The conservatives in Congress had been betrayed into a grave tactical blunder, because they shut their eyes to the real signs of the times. They did not yet know the rules of prudence in a day of personal politics; did not understand the subtle elements of the play; did not know the opinion of the country or comprehend the drift of affairs.

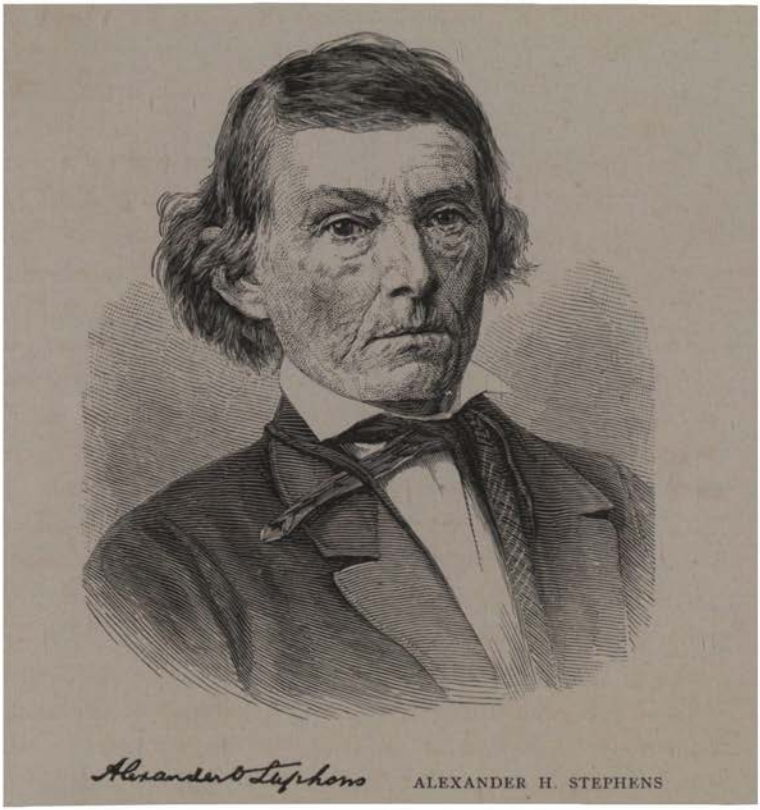
The Bank of the United States had been first created in 1791, and the question of the right of Congress to establish it had been duly fought out then, as it were at the very founding of the government. Both Congress and the Executive had accepted the conclusions of Mr. Hamilton in the matter, and rejected the conclusions of Mr. Jefferson. Mr. Jefferson's party had allowed the charter of the Bank to lapse in 1811, when their day of power came, professing themselves opposed to it on principle; but in 1816, finding the exigencies of finance powerful solvents of their scruples, they had changed their minds and had given it another twenty-year charter. Three years later the Supreme Court of the United States (*McCulloch vs. Maryland*, 1819) confirmed the reasoning of Mr. Hamilton with regard to its constitutionality in a formal decision, and set the views of every scholarly lawyer in the country once for all at rest on the matter.

But General Jackson had come in "to simplify and purify the workings of the government, and to carry it back to the times of Mr. Jefferson,—to promote its economy and efficiency, and to maintain the rights of the people and of the States in its administration"; and from the outset, with something of the instinct of the communities in which he had been bred, he looked upon the Bank as an enemy of constitutional and democratic government. His attack upon it, begun in his first inaugural address, had been continued in every annual message he sent to Congress. He had begun by plainly intimating a doubt as to the legality of its institution, the Supreme Court to the contrary notwithstanding; and had asserted that it had failed to establish a stable currency. He next pronounced it an "un-American monopoly." Finally he expressed serious misgivings

as to the soundness of its management. At each mention of it his warmth sensibly increased; his hostility became more open and aggressive. The purpose apparently grew upon him to destroy it. He forced it to meet him, as challenger, and fight for its life in the open field of politics. Influences were at work upon him which were only by degrees disclosed to his opponents.

The constitution of the Bank unquestionably placed it very near the government itself. Its capital stock was $35,000,000, and of this the federal treasury held nearly one-third by direct subscription ($11,000,000); five of its twenty-five directors were appointed by the President of the United States; it was the depository of the public funds and enjoyed the use of them without interest; it was empowered to issue circulating notes to the full par value of its capital stock; and its notes were made receivable by the United States as cash for all debts. Congress pledged itself to create no other bank while the charter stood. In return, the Bank had paid the federal government a million and a half dollars for its franchise, and undertook to negotiate the loans of the government without charge or commission. Its notes it was obliged by law to redeem in specie on demand. Although a private corporation and carefully planned upon conservative and prudent principles, it was unquestionably the ruling force in the money market, and took its power from its connection with the government. Undoubtedly, too, it had been intended to play this dominating part and was by design a political institution. It had been Mr. Hamilton's object, in setting up the first Bank of the United States, to bring the money transactions of the country under a

central control, to check the experimental banking operations of the States, and to draw the capitalists of the country and the greater organizers of industry to the active support of the federal government upon grounds



ALEXANDER H. STEPHENS

of interest. The second Bank, now under fire from the Executive, had been given the same constitution and function.

The supporters of the Bank were in a measure justified in claiming that it was for such a purpose that the very government itself had been set up. Nothing had

more obviously threatened quick and overwhelming disaster to the country in the days of the Revolution and the Confederation than the reckless financial operations of the States, their unlimited issues of irredeemable paper, their piled up promises and meagre means of redeeming them; and the constitution of the Union had been framed almost as much to avert ruin from that quarter as to create a real government, clear up the relationships of the States to one another, and steady their political action. It absolutely forbade the States to issue bills of credit, did not give the federal government itself power to do so, and was meant practically to prohibit the use of any currency which was not at least based directly upon gold and silver. But the courts had opened new flood-gates. They had ruled that, although the States themselves could not legally issue bills of credit, they could incorporate private banks authorized to issue notes at pleasure, with or without proper security for their redemption,—could even themselves invest public moneys in the stock of such banks and become virtual partners in the irresponsible business. Gold and silver were hard to get, came within reach of eager borrowers only in the most niggardly quantities, and could be had only for securities in hand. The adventures of growth and industry in a new country where everything was making and to be made demanded easy credit, to be had for the asking, and abundant money; and had only promises and hopes to offer for security. Banks of issue sprang up everywhere that there was expectation and sanguine confidence; and every possible vagary attended their operations. No man could tell a day's journey from the bank whose paper he carried whether it would be accepted and serve him as money or not.

Only a great commanding bank, everywhere known, whose notes really and always represented gold could supply paper worth its face value in all places or keep exchanges from chaos.

Such an agency of adjustment and control the Bank of the United States had proved itself to be. It had not only served its purpose as a fiscal agent of the government to the satisfaction of the Treasury, but had also steadied and facilitated every legitimate business transaction and rid the money market of its worst dangers. But many of the men to whom General Jackson was accustomed to listen believed, or affected to believe, that it had done much more: that its power was used to serve a party and to keep men who were no friends of the people or of popular rights in a position to manage and corrupt the whole politics of the nation. They reasoned out of experience. The state banks were everywhere notoriously tainted with political partisanship, — were almost everywhere familiar, recognized engines of party supremacy. No one who was not of the political majority in the State could get a banking charter from a state legislature; no one was absolutely sure of credit or indulgence at a state bank except those who were of the party of its directors. It had come to be looked upon as a matter of course that banks should be used as parts of the machinery of political control. General Jackson and his partisans could not believe that the great Bank of the United States was free from a similar taint. It had certainly been established by men of the party which they were now trying in all things to supplant, the men who had turned away from General Jackson and followed Mr. Clay. It was part of the old, suspected, aristocratic order which the new democ-

racy had come in to set aside, and everything that it did was subjected to suspicion.

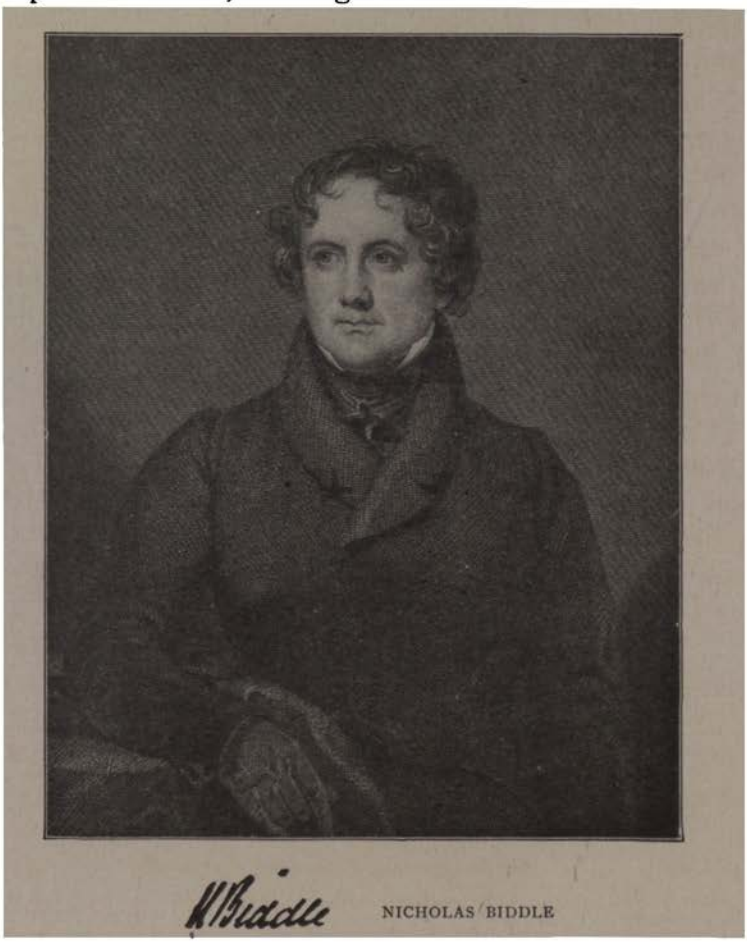
The Bank had branches throughout the country, at points of convenience where business centred. Friends of General Jackson complained that men openly opposed to them in every party interest were appointed officers of these branches, even in States which had cast their votes for General Jackson and the new régime; that loans were refused and collections insisted on in a way which was offensive to the partisans of the Administration; and that money was used in the elections against them. They were particularly indignant that Mr. Jeremiah Mason, an incorrigible Federalist, had been made president of the branch bank at Portsmouth, in New Hampshire, and had shown himself disinclined, as they had expected, to afford friends of General Jackson any unusual indulgence or accommodation in matters of business. Concrete cases fixed General Jackson's convictions in such matters as no argument upon the merits could fix them. Here was a very tangible example of what he had been led to suspect. The story came straight from friends whom he trusted,—from Mr. Levi Woodbury and Mr. Isaac Hill, the two men who had been chiefly instrumental, he had reason to believe, in winning New Hampshire over from the Federalist to the Jackson interest. Mr. Hill was editor of the *New Hampshire Patriot*, and had an editor's inside view of the politics he had had so large a share in shaping. He was also one of the officers of a bank at Concord which was operated under a charter from the State, and had a state banker's knowledge of what the branches of the Bank of the United States could do to dominate credit and control exchanges. Mr. Wood-

bury had been chosen a senator of the United States in 1825, and had from the first been received into the intimate counsels of the new President. Mr. Hill had left his bank and his paper in New Hampshire to put himself at the service of the Administration in Washington, and had become, as everybody knew, a member of the "Kitchen Cabinet." When such men told him of the influence of the Bank in New Hampshire, the President could but believe them. Mr. Kendall brought him the same report of its influence in Kentucky. It had undoubtedly, he said, spent money there to secure the success of Mr. Clay and the defeat of General Jackson.

It seemed a significant thing that Jeremiah Mason should have been chosen for president of the branch bank at Portsmouth. He was unquestionably the political opponent whom the Jackson leaders in New Hampshire most feared, and had most reason to fear. His character gave him a very noble eminence; his extraordinary abilities as a debater and his exact knowledge as a lawyer gave him an instant hold upon every thoughtful audience. All the country knew how formidable Mr. Webster was in debate, and Mr. Webster ascribed no small part of his own power to the lessons he had learned when pitted against Mr. Mason at the bar.

The President had no mind to let the case go unnoticed. Mr. Ingham, the Secretary of the Treasury, brought it to the attention of Mr. Biddle, the President of the Bank of the United States (1829), in a letter in which he frankly took it for granted that Mr. Mason had been appointed because of his hostility to General Jackson; plainly intimated that the whole object of the Bank's establishment and management had been

to strengthen "the arm of wealth" in order to "counterpoise the influence of extended suffrage in the disposition of public affairs"; and urged that the Bank clear itself



NICHOLAS BIDDLE

of the suspicion by drawing its officers and appointees from both political parties without discrimination. Mr. Biddle replied with natural indignation. It was easy to refute the charges made. In the particular case of

the branch bank at Portsmouth the well known character of Mr. Mason made them ridiculous. It could be shown conclusively enough that, whatever party the officers of the Bank happened to be chosen from, its affairs were conducted in accordance with sound principles of business, and with no view to either giving or withholding favors upon political grounds. Mr. Biddle found no difficulty in framing a reply which should have convinced all candid men upon the main points at issue.

He made a grave tactical blunder, none the less, in the tone and method of his defence. He knew the temper and susceptibilities of the men he was dealing with and the temper of opinion in the country as little as Mr. Clay did and the men who stood with Mr. Clay against the President in Congress. The warmth of Mr. Biddle's reply to the Secretary, however natural, was most impolitic; and he did not content himself with refutation, but went on to utter what seemed little less than a defiance. He reminded Mr. Ingham that the Bank of the United States, whatever its business connections with the federal government, was a private corporation, accountable to no one but its own directors for the conduct of its affairs. Mr. Ingham responded with a pointed threat. He reminded Mr. Biddle, in his turn, that the law by which the Bank was incorporated authorized the Secretary of the Treasury to withdraw the deposits of the United States when he deemed good cause for the withdrawal to exist.

Mr. Ingham retired from the Treasury upon the reconstruction of the cabinet which followed the President's breach with Mr. Calhoun, and Mr. Louis McLane, of Delaware, took his place (August 8, 1831), a man of

better balance and more liberal spirit, trained in the older school of politics. In December, 1831, his report to Congress ran strongly and unmistakably in the Bank's favor, and it began to look as if the temper of the Administration had already cooled and altered in the needless quarrel, which was of its own making. But the friends of the Bank were not wise enough to let the matter drop. Its charter was safe at least until 1836, and General Jackson, they might have hoped, would learn the Bank's value by experience, should he remain President until then. But Mr. Clay advised that application be made at once for a renewal of the charter, while the houses certainly held a majority favorable to it; and the advice was imprudently taken. The matter was pressed at once, and in the summer of 1832 (June–July), during the session which immediately preceded the presidential election, a bill renewing the charter passed the Senate by a vote of 28 to 20, and the House by a vote of 109 to 76. It was a direct challenge, and General Jackson of course met it with a veto, delivered point-blank and without hesitation.[1] The Bank's majorities in the houses were not large enough to pass the bill over the veto; and Clay men and Jackson men alike turned to the country for its verdict.

The folly of staking the fortunes of the Bank against the popularity of General Jackson at the polls was quickly enough demonstrated. It was much easier for the mass of men who now held the votes of the country to believe the Bank a dangerous and corrupt monopoly than to understand the arguments of statesmen who argued of its services to the government and to commerce. They recognized General Jackson as a man of their own instincts, and deemed those instincts

[1] See page 204.

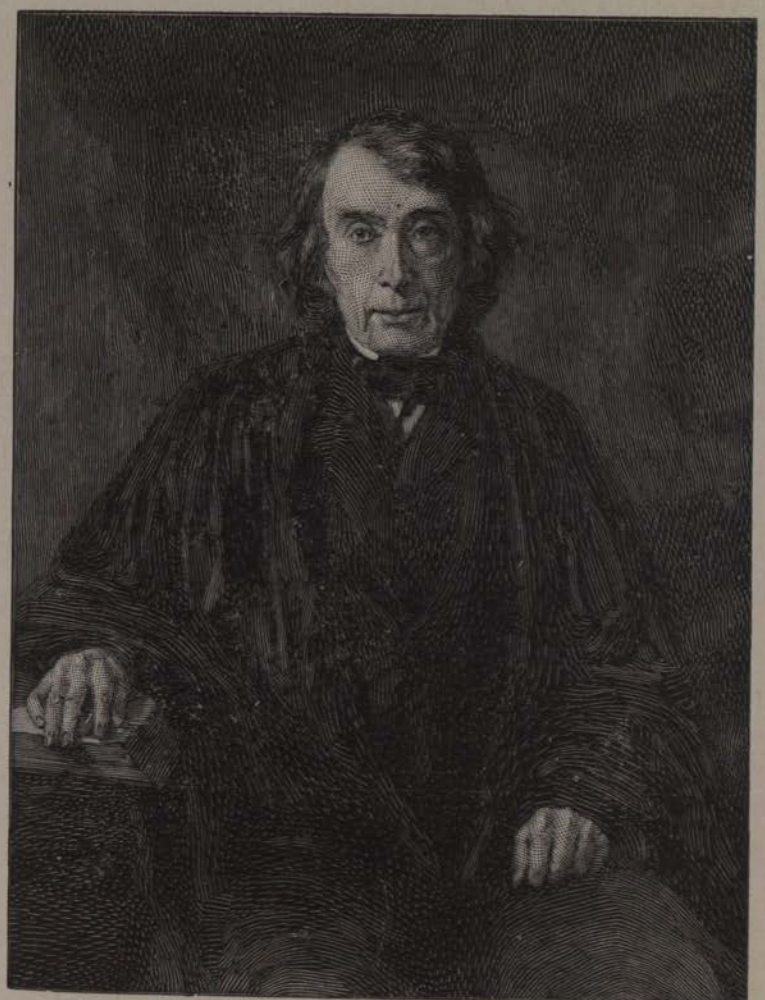
a sure enough guide in politics. Statesmen might approve of the Bank, but the people thought of it only to suspect it, and preferred General Jackson to all the statesmen the Bank could muster to its standards. A second time they chose General Jackson President. He interpreted their votes to mean a deliberate verdict against the Bank,—a command to destroy it; and its fate was sealed. The President proceeded with characteristic promptness and directness. He first turned to Congress (December, 1832), the very Congress which had passed the vetoed bill, and asked for an investigation, to ascertain whether it was still safe to leave the deposits of the government with the Bank, in view of its mismanagement and probable insolvency. No one but General Jackson and a handful of politicians about him seriously questioned the good management of the Bank or for a moment doubted its solvency, even then, with its charter evidently doomed; and the House very emphatically declared that in its opinion the deposits were safe. General Jackson, accordingly, determined to act without Congress and on his own responsibility. He resolved that the Bank should no longer be given the custody of the public funds.

The statute under which the Bank was incorporated conferred the power to act in that matter, not upon the President, but upon the Secretary of the Treasury. The President therefore wrought his will upon the Treasury Department. Mr. McLane, whom he knew to be favorable to the Bank, he transferred from the secretaryship of the Treasury to the secretaryship of State, appointing Mr. Edward Livingston, then Secretary of State, minister to France, and putting Mr. William J. Duane, of Pennsylvania, who was known to be an

opponent of the Bank, in charge of the Treasury Department. Mr. Duane showed unexpected scruples, and declined, out of a mere sense of duty, to make way for the execution of the President's radical plan. He was dismissed, therefore, within four months of his appointment, and the Treasury was put into the hands of Mr. Roger B. Taney, of Maryland, the Attorney General, whose views the President knew to be his own (September 23, 1833). An order from Mr. Taney forthwith directed (September 26) that the revenues thereafter accruing should be deposited, not with the Bank of the United States, but with certain state banks selected by the Secretary for the purpose, and that the balance of the government in the Bank of the United States, then nearly ten millions, should be drawn upon for the government's expenses until exhausted.[1] The thing was done at infinite hazard of financial panic. The Bank was obliged to curtail its loans very sharply and at once, in order to bear the drain, which was to be offset by no replenishment; there was immediate distress in the money market, a sudden flutter of credit; and only the sound condition of business at the moment prevented crisis and disaster.

The President spoke of the matter in his annual message with his usual intrepid frankness: took the whole responsibility for what had been done upon himself, and justified it. No one whose opinion was of any weight in such a matter had approved of the removal of the deposits; his own cabinet had been opposed to it, as both unwise and of doubtful legality, and had united with Mr. Duane in trying to turn him from his purpose; but he had gone his way without pause, hesitation, or excitement, like a man convinced and confident.

[1] See page 224.



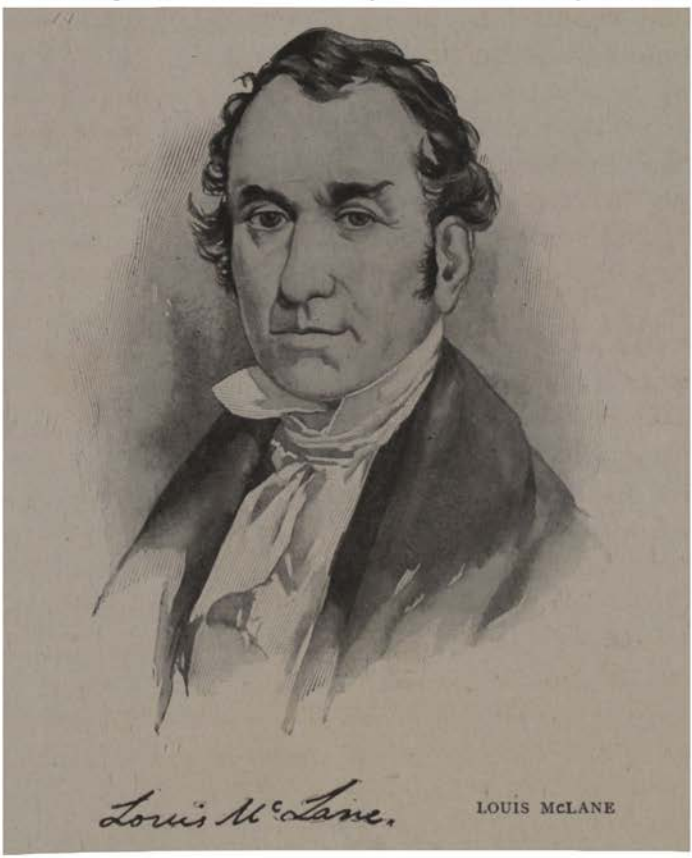
R. B. Taney

ROGER B. TANEY

He believed that the Bank had gone into politics to prevent his re-election, in 1832 if never before. Its directors admitted that large sums had been spent out of its funds for pamphlets, for speeches, for every legitimate means of agitation in the campaign, which it knew to be a struggle for its life; and the President, who, with Mr. Clay as ally for the nonce, had forced it thus to meet him in the field of party action, now declared that the issue had come to this, "whether the people of the United States were to govern through representatives chosen by their unbiassed suffrages, or whether the power and money of a great corporation were to be secretly exerted to influence their judgment and control their decisions." He made no scruple of the law in the case, deeming law meant for the service of the country.

The new House of Representatives, elected in the autumn of 1832, was now controlled by his friends, and supported him. The Senate, on the contrary, still stood against him, led, as before, by Mr. Clay, Mr. Webster, and Mr. Calhoun; and spread upon its minutes a public and formal censure, in which it earnestly condemned both the dismissal of Mr. Duane and the removal of the deposits. General Jackson replied in an equally formal protest, which ran hot and imperious. It spoke his whole theory of constitutional obligation: his resolution to be bound by neither court nor senate, nor any precedent whatever, but only by his own conviction of duty as a representative of the people under the constitution. The contest was ended. The Bank of the United States quietly made ready for the expiration of its charter, and when it came (1836) accepted in its stead a charter from the State of Pennsylvania.

But the effect of what the President had done had by no means passed or spent itself. General Jackson had said that the Bank of the United States did not give the country a stable currency. The country had an



LOUIS McLANE

opportunity to see for itself what service it had rendered when its check was withdrawn. It was no sooner discredited than the old inflation of bank issues came again, with wider range and play of destructive force than ever. The "pet banks," as they were promptly dubbed,

to which the deposits of the government had been transferred, were selected upon party principles,—were one and all "Democratic" banks in the South and West, whose directors were of the President's party. Their number was fixed by no law or principle, and began from the outset to be added to from time to time, as this, that, or the other influence of interest or persuasion obtained the patronage of the government for banks not at first favored with a place on the list. State banks saw their day come again. State legislatures multiplied banking charters without safeguard or limit. Every bank sought the government's favors; but none was discouraged because it did not obtain them. All banks were banks of issue. Those that did not have the government's money to lend loaned their own abundant notes. Paper money seemed to pour of a sudden from every town and hamlet, and speculation began to heap risk upon risk to make use of it. The real money centres of the country had little part or lot in the business. Enterprise ran freest where chiefly compounded of hope,—where the resources of the country, though unmistakably rich with every promise of abundant profit, were as yet undeveloped, awaiting the slow processes of industry. The bubble of credit glistened resplendent with all the hues of the round globe, until General Jackson himself, in his rough honesty, pricked it.

The first strain and flurry came by reason of the mere superabundance of the national revenues. Business had been sound and prosperous until this new policy which upset the Bank came to disturb it, and the government had shared the profits of the merchant and the manufacturer. By the close of the year 1835 it was entirely free from debt. The revenues which filled its

coffers could not be reduced: they came chiefly from the tariff duties as fixed by the compromise Act of 1833, and that was a pledge of peace between parties which no man cared to alter. Rather than keep surplus piling upon surplus, accordingly, Congress ordered (June, 1836) that on and after the first of the following January all surplus funds over and above five millions should be distributed, quarter by quarter, among the several States, as loans without interest which Congress might at its pleasure recall. Not a few of the pet banks found themselves considerably embarrassed to meet the drafts upon them by which the quarterly distributions were made; but the States found speculative schemes to put the money into quite as readily as individuals did; the movement of business was not disturbed; and before the year was out there were no more such disbursements to be feared. Only three quarterly payments were made,—a total of twenty-eight million dollars. After that there was no surplus to distribute. General Jackson had pricked the bubble.

The President had a very sturdy and imperative sense of right and honesty in all money matters. He believed gold and silver to be "the true constitutional currency" of the country, he said. He demanded of the pet banks that they should keep specie enough to cover at least a third of their circulation, and that they should issue no notes of a lower value than twenty dollars. He increased the output of the mints and tried by every means to force coin into circulation. He had no idea of letting the country try again the fatal experiment of an irredeemable paper currency, if he could prevent it; and when he saw the fever rising in spite of him he tried a remedy as drastic and wilful as

his destruction of the Bank of the United States. Speculation and hopeful enterprise had had an extraordinary effect upon the sale of the public lands. In 1834 the government had received less than five millions from that source. In 1835 the sum sprang up to more than fourteen millions, and in 1836 to nearly twenty-five millions; and the money poured in, not, of course, in gold and silver, but in the depreciated currency of innumerable unknown banks. The Treasury was forbidden by statute to receive any notes but those of specie paying banks; but things had by that time already come to such a pass that no man could certainly or safely distinguish the banks which really kept a specie reserve from those which only pretended to do so. On July 11, 1836, accordingly, by the President's command, a circular issued from the Treasury directing the land agents of the government to accept nothing but gold or silver in payment for public lands. Again, as in the case of the Bank, the President's advisers drew back and dis-

ELECTORAL TICKET OF 1836

approved; but again he assumed the full authority and responsibility of his sovereign office, and delivered his blow without hesitation or misgiving.

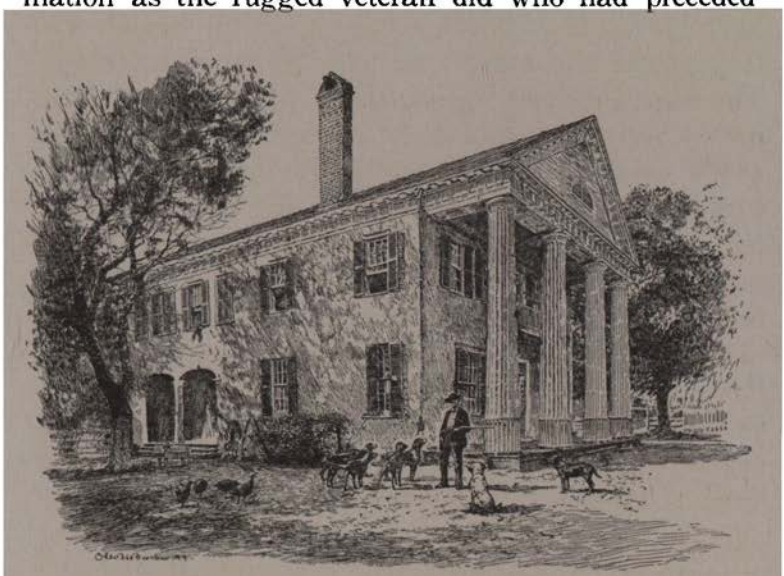
The effect was to shatter the whole fabric of credit. But the consequences did not disclose themselves at once. General Jackson had retired from public life and Mr. Van Buren had succeeded him in the presidency (March, 1837) before the inevitable day of disaster and collapse had visibly come. The imperious old man must have looked back with not a little satisfaction upon the long series of personal triumphs he had won, against trained statesmen and old parties intrenched against him. Even in diplomacy his energy and prompt initiative had won him successes denied to his predecessors. He had sent Mr. McLane to England to say that all our restrictions upon the carrying trade of England would be repealed if England would remove those which she had put upon the carrying trade of the United States in the West Indies; and the ports which had been shut in the faces of Mr. Gallatin and Mr. Adams were opened to him, Congress promptly fulfilling his promise with regard to the action of the United States (May 29, 1830). He pressed upon the new government of Louis Philippe in France, and upon the other governments as well which had been at fault in the matter, the claims of the United States for depredations unlawfully committed upon American commerce during the Napoleonic wars; and the claims were recognized and paid. He moved straight and openly upon every object he desired, and his very directness seemed to add dignity and scope to the government over which he presided. He had created a party and put subtle revolution into affairs by sheer force of individual qual-

ity, and left his great place and office before either he or the men who loved and followed him were aware what mischief he had unwittingly done, — how the whole framework of settled politics had been shaken and loosened at every joint by his wilful supremacy.

General Jackson had obliged his followers to accept Mr. Van Buren as his successor in the presidency: they were dominated by his will in this as in all things. The convention which nominated Mr. Van Buren had met a full year and a half before the election (May, 1835), while the power of the indomitable President was at its mid-term vigor; had been irregularly made up, its ranks crowded with men who held office under the President; and signs of faction and revolt had not been wanting. The country had chosen lukewarmly, too, the man whom the party had named perfunctorily. His majority in the electoral college had been but 47, as against General Jackson's majority of 152 four years before; his popular majority only 26,000, as against General Jackson's 157,000. The opposition had lacked unity and organization; hardly constituted a party at all; consisted, rather, of various groups of several shades of opinion; and put several candidates into the field: General William Henry Harrison, of Ohio, Mr. Webster, and Judge Hugh L. White, of Tennessee, for whom Tennessee voted, General Jackson notwithstanding. But, rank and file, the Democrats had stood by Mr. Van Buren. In him they acknowledged their debt and allegiance to General Jackson.

Not a little strength of character underlay Mr. Van Buren's bland exterior, his conciliating manners, his air of sweet accommodation. He was also, in his way, a consummate master of men. He mastered them by

insight, by intimate and friendly counsel, and by knowing the end he sought. But he did not rule or dominate by force of will. That slender little gentleman, always courteous, always placid, always ready to listen, and wait to have his way, could not hold or rule the imagination as the rugged veteran did who had preceded

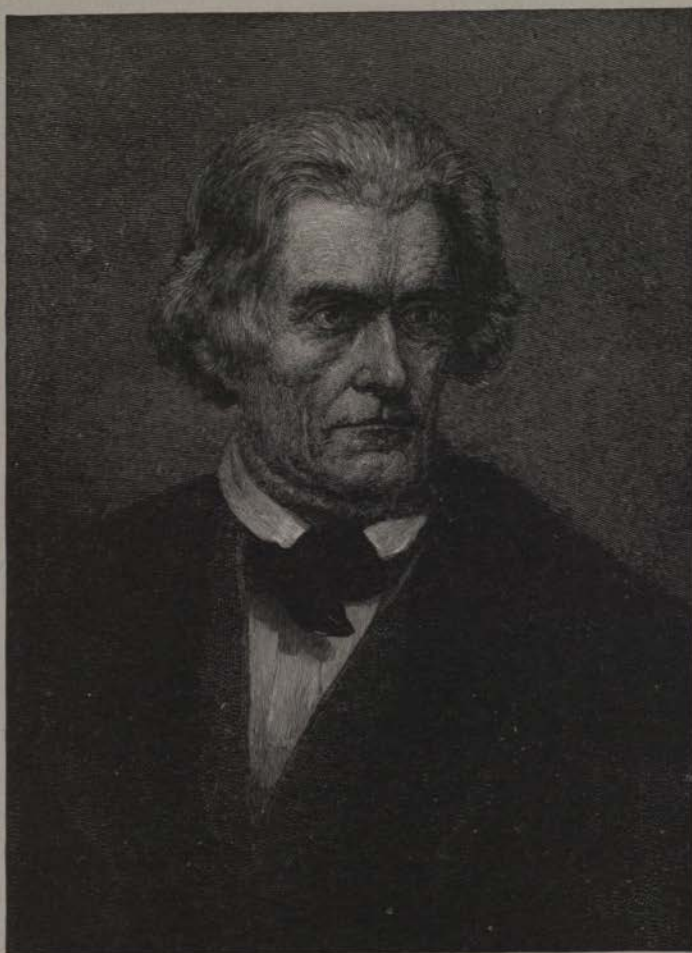


A NORTH CAROLINA MANSION OF THE OLD STYLE

him, tall, gaunt, sad-faced, majestic, carrying fire, gracious and grim by turns. The country regarded its new, soft-spoken President much as an audience would regard a bland, mellow-voiced, facile player brought on as understudy to some intense tragedian; was slow to take him seriously, slow to be convinced that he had an individuality and a power of his own. He seemed tacitly to promise in everything that he said that at every point of policy his administration should

be but a continuation of what his predecessor had begun; and men looked on with curiosity rather than with sympathy, were more ready to criticise than to applaud.

While Jackson reigned he had seemed rather the maker than the representative of policy, and the Democratic party had been with difficulty discernible behind his stalwart figure, standing always at the front of the stage. Now at last it entered the play, as itself an independent and originative force in affairs, the President merely one of its leaders. The revolution wrought in political action by the coming in of General Jackson had fairly shaken parties asunder. Throughout his administration they had sought rather than obtained a new order and cohesion. The "National Republicans," who had stood with Mr. Adams and Mr. Clay, had been even when at their strongest something less than a national party. Adherents had come and gone while the fighting thickened about General Jackson in Senate and House. When Mr. Van Buren became President they were still, if separately distinguishable at all, only the chief group among many groups combined in opposition. The Democrats were at last a veritable party; Mr. Clay's friends were only part of a party. Not until 1834 did the grouped Opposition of which they formed the centre acquire a party name, or begin to arrange the definite concerts of party action. By the summer of 1834 they were coming to be spoken of very generally as "Whigs." National Republicans; Anti-Masons; men who thought that South Carolina had been too harshly dealt with, to the detriment of constitutional state rights; men who condemned Jackson's high-handed way in the matter of the deposits, "the immolation of Duane and



J. C. Calhoun

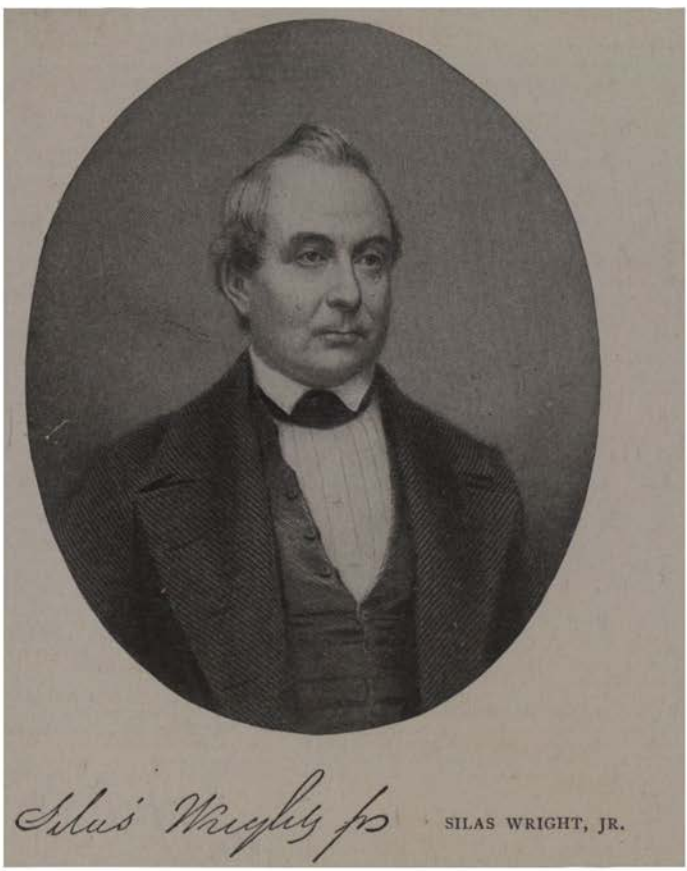
JOHN CALDWELL CALHOUN

the subserviency of Taney"; all who were startled to see how of a sudden a President had made himself as it were the master of the government, drew slowly together, and a great party was created. Insensibly, when power came to it, and the heartening breath of success, it reproduced the principles and spirit of the Federalists: their liberal way of interpreting the constitutional powers of the government, their confident enterprise in pushing forward to new programmes of action and putting the government at the front of the nation at every step of its progress, their belief in constructive statesmanship and the efficacy of legislation in the development and determination of the country's life. But for the present it was merely a party of opposition, set over against the Democrats, who were in charge of the government and yet did nothing: did nothing, apparently, upon principle. General Jackson had in fact carried the government back to the principles of Mr. Jefferson, as his friends had said that he would: had squared its action with those principles more perfectly a great deal than Mr. Jefferson himself had done. His intense and aggressive activity in affairs had obscured the fact while his personal power lasted; but he had spent his telling energy upon clearing the field of what his predecessors had constructed,—not upon making but upon setting aside; and he left a party behind him which had imbibed his spirit: which desired no new era of Federalistic policy; which wished to see the field kept clear of unnecessary laws and fostered institutions, of great corporations created for the use of the government and favored enterprises subsidized in the interest of a class; which desired to see authority used, not to patronize or foster, but only to give the

government the necessary force and to administer it with a wise and honest moderation, while all things went their natural course, unpetted and unhampered.

It faced a crisis with principles negative and opposed to action, and yet faced it undaunted, advocating only a safe withdrawal of the government from the field of danger. Within two months after Mr. Van Buren's inauguration General Jackson's "specie circular" had done its work. A sharp financial crisis racked the business of the country from end to end, and brought with it a panic stubborn and hopeless, which seemed for months together as if it had come to stay. It had been strain enough that the money market had had to accommodate itself to the preparations of the Bank of the United States for the winding up of its business, and to the distribution of the surplus among the States. There had been a rapid increase, besides, in the volume of imports since 1832, and considerable sums of specie had had to be sent out of the country to meet the balances of international trade. The specie circular had come with cruel opportuneness. Bankers and borrowers alike had been reckless; credit was already out of breath. When the great sums of paper that had gone west for the purchase of lands from the government came suddenly back by the hundreds of thousands for redemption there was instant collapse and panic. Most of the banks had no specie and were utterly unprepared to redeem their notes; those that had specie could afford no relief,—had themselves too little to take care of their own notes. There was a universal suspension of specie payments, and credit was dead at a stroke. There had been signs enough of what was about to happen before the end came. A feverish rise in prices had

preceded it. The price of flour, which had been but five dollars in 1834, had shot up to eleven dollars per barrel during those first uneasy months of 1837; the



SILAS WRIGHT, JR.

price of corn had risen from fifty-three cents per bushel to a dollar and fifteen cents; and in February and March there had been bread riots in New York.

On May 15th the President issued a call for an extra session of Congress, to be convened on the first

Monday of September. He had, it turned out, nothing to propose except that the interests of the government should be looked to. The pet banks had gone down with the rest, and it was necessary that the government should secure its revenues. Mr. Van Buren had no thought of receding from the policy of the specie circular; on the contrary, he had himself, amidst the very signs of acute and increasing distress, issued a similar order with regard to the transactions of the Post Office. He stood stubbornly for specie payments, banks or no banks, and had aggressive spokesmen at his back in Congress: notably Mr. Wright and Mr. Benton in the Senate. Mr. Silas Wright, of New York, was the President's close friend, in politics and out of it; had been bred in the same school of politicians; had the same astuteness in policy, and was yet, like Mr. Van Buren himself, steadfast in the maintenance of such principles as he saw and believed in. He was of the school of those who fought for party success and studied the subtle art of party management. He was no student of principles—a politician of the new day, rather; but honest and ready to act upon conviction. He believed, as all Democrats of the new cast did, that the offices of the government belonged to the majority, as "the spoils of victory"; but he avowed the belief with no touch of cynicism,—with the naturalness, rather, and unaffected candor with which a man avows principles he sees no need to be ashamed of; and he could, with equal naturalness and honesty, now bring forth out of his singular assortment of motives, as politician and yet as statesman too, a stern faith in the honesty and necessity of "hard money." Mr. Benton was no partisan of the administration: he was too

intense an egotist to be any President's personal adherent or spokesman. But he, almost alone amongst public men of experience, had encouraged General

SAM HOUSTON

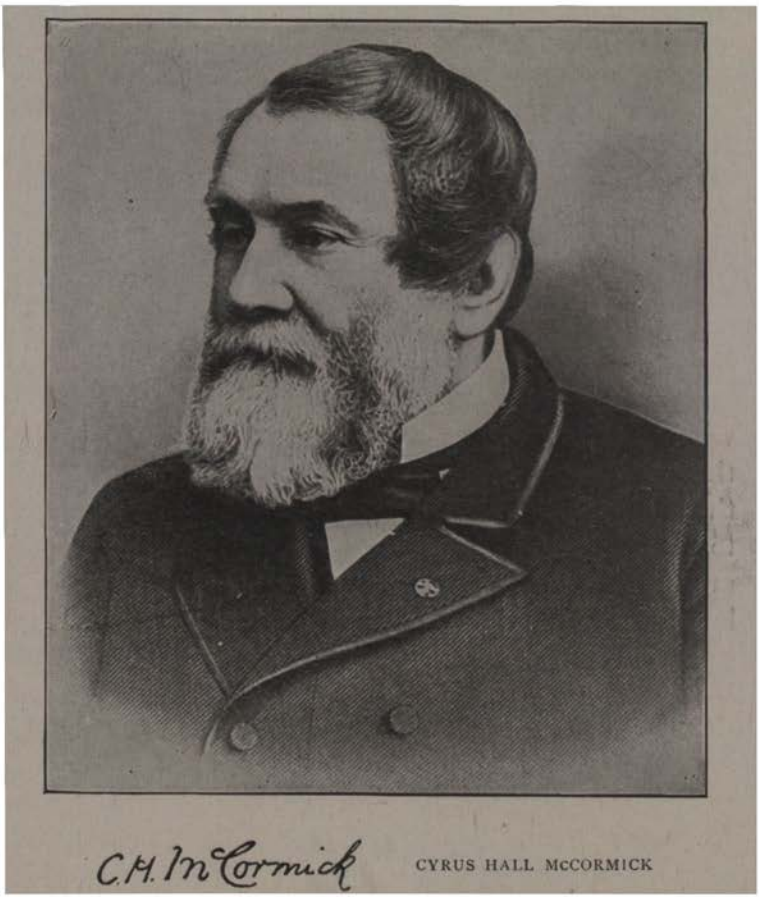
Jackson to put forth the specie order; and he was now ready to give the administration his hearty support in the maintenance, so far as the government was concerned, of specie payments.

The President and his spokesmen had nothing to

propose for the relief of business. He believed, as Mr. Calhoun did, that palliatives would only prolong the unavoidable misery of readjustment and the return to sound methods of business, the substitution of real for fictitious values and of production for speculation, and that, bad as they were, things would right themselves more quickly and more wholesomely without the intervention of legislation than by means of it. His plan was, to cut once for all the connection of the government with the banks, and provide for the custody, handling, and disbursement of the revenues by the Treasury alone. For three years, through two Congresses, he fought doggedly for his purpose; and won at last in midsummer, 1840. Then he got exactly what he wanted. An "Independent Treasury Act," signed July 4, 1840, provided that the Treasury of the United States should itself supply vaults and places of deposit for the revenues, at Washington and at other cities appointed for their receipt; that all federal officers charged with their receipt, safe keeping, or disbursement should be put under proper and sufficient bonds for their careful and honest use and custody; and that all payments thereafter made either to or by the United States should be made in gold or silver only. It had not been possible to bring the first Congress of Mr. Van Buren's term to accept this scheme. Twice adopted by the Senate, now at last Democratic, it had been twice rejected by the House, where a section of the Democratic majority united with the Whigs to defeat it. Meanwhile the President had been obliged to do without law what he wished Congress to authorize by law. The banks of deposit had suspended payment; there was nothing to be done but to direct the agents of the Treas-

ury to keep and account for as best they could the moneys which came into their hands.

Meanwhile, too, the country went staggering and

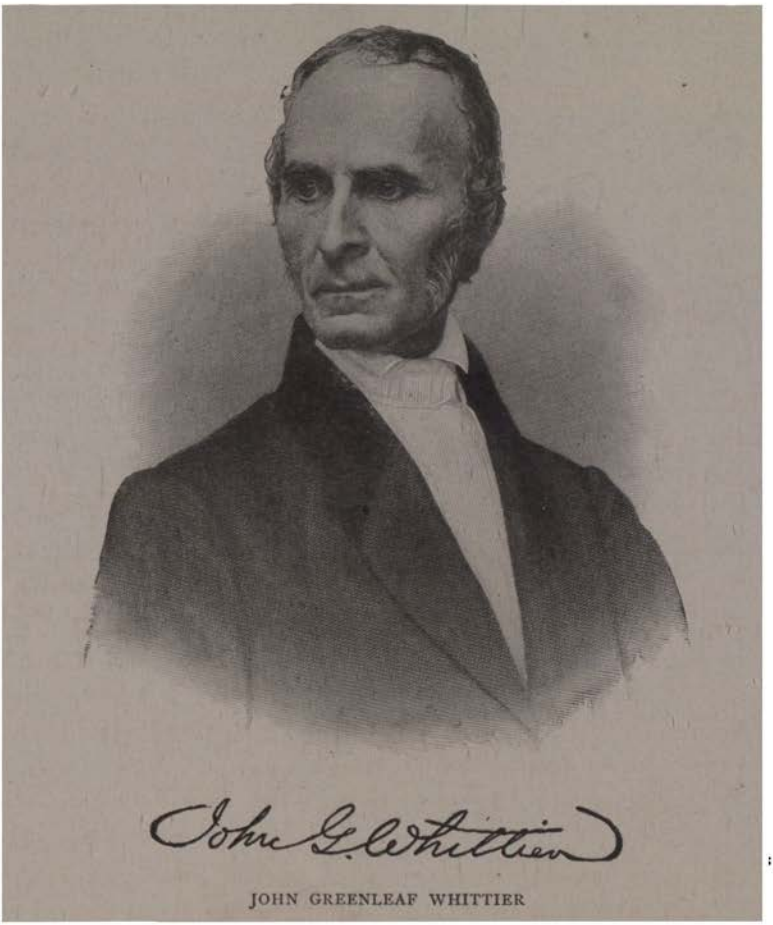


CYRUS HALL McCORMICK

bewildered through its season of bitter ruin. There had been nothing like it before in all the history of business in America. Utter collapse and despair came, soon or late, upon every sort of undertaking the year

through. Radically unsound banking laws in the States had been at the bottom of all that had happened to bring disaster on; and yet no one could reasonably wonder at the hopes and schemes which had bred that swift and fatal fever of speculation. Abounding wealth unquestionably awaited the enterprise and industry which should develop the rich valleys of the West, plant productive communities there, and unite East and West by road and river; and means of quick development had at last been found which promised fulfilment of every dream within a single life-time,—it might be within a single decade,—who could tell? It seemed as if, in this very decade of Jackson's reign and the new democracy, the world had hit upon ways of almost instant increase of wealth and power, where resources were at hand, virgin and inexhaustible. It was then that railways began to be built and steam boats put upon the rivers; and the great spaces of the continent began to seem no longer insuperable obstacles to the growth men had dreamed of and strained after ever since the landing at Jamestown. Robert Fulton had put a successful steam boat on the Hudson as long ago as 1807; but until now steam craft had seemed hardly more than novel conveniences, to be experimented with. Now at last they began to be built in numbers sufficient to quicken and facilitate enterprise and settlement. Railways seemed to spring suddenly into existence, to serve the same end. In 1830 there were but twenty-three miles of rail in the country: a short road here and there for cars drawn by horses. But presently steam was brought into use for the propulsion of cars also; and within five years (1835) no less than thirty million dollars had been invested in railroads. Before the

crisis of 1837 came more than fourteen hundred miles of railways had been constructed; and by the time Mr.



JOHN GREENLEAF WHITTIER

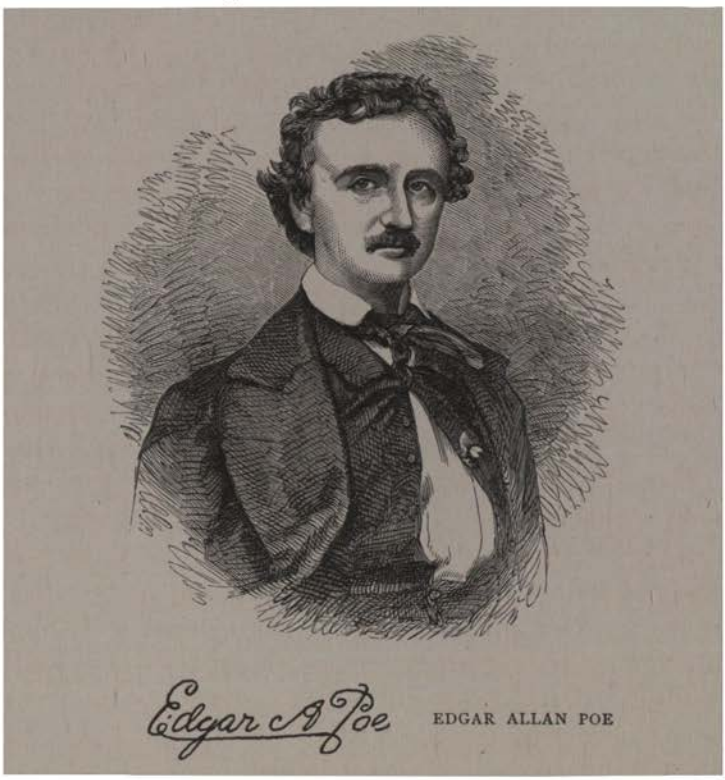
Van Buren went out of office (1841) there were more than three thousand, the crisis notwithstanding.

Invention seemed to awake on every hand, and was not a whit daunted by the state of the money market. In 1834 Cyrus Hall McCormick had invented a reaper,

to be drawn by horses, which once for all solved and simplified the problem how the great plains and wide valleys of the West were to be brought under cultivation by a sparse pioneer population, where hands were few. In 1836 means were found by which the great anthracite coal beds of the country could be used in the production of steam and in the manufacture of iron. Along with the utilization of the new fuel came the invention of the screw propeller. By 1838 the invention had been fairly perfected, and it had become reasonably certain that steam craft upon the ocean would draw the continents of the world together as steam craft upon the rivers and locomotives upon the railways were uniting East and West in America. In 1839 James Nasmyth, at Manchester, invented the steam hammer whose use was presently to increase so enormously the power and resources of the iron forges from which the new machinery of conquest and manufacture was pouring forth.

Here were the instruments of industry and of real production upon which imagination dwelt and speculation based its hopes. Real wealth was being created apace, and nothing was too extravagant to hope for. More eager movements of population went with hope and enterprise, and a very ferment of social and economic change. With the growth of manufacturing industries came concentration also. Towns began to grow into cities. Enterprise took on a new magnitude, individual initiative was a little daunted, and corporations began to be multiplied. Finding themselves massed in the new undertakings, finding their employers, not individuals, but groups of men using their combined capital upon a large scale, workmen and mechanics began to draw together into protective organizations;

and new murmurs against "capital, banks, and monopolies" disturbed the peace alike of philanthropists and of politicians. The rural nation which had chosen General Jackson to be its leader began to be transformed even while he reigned:—most of all in the East, where



EDGAR ALLAN POE

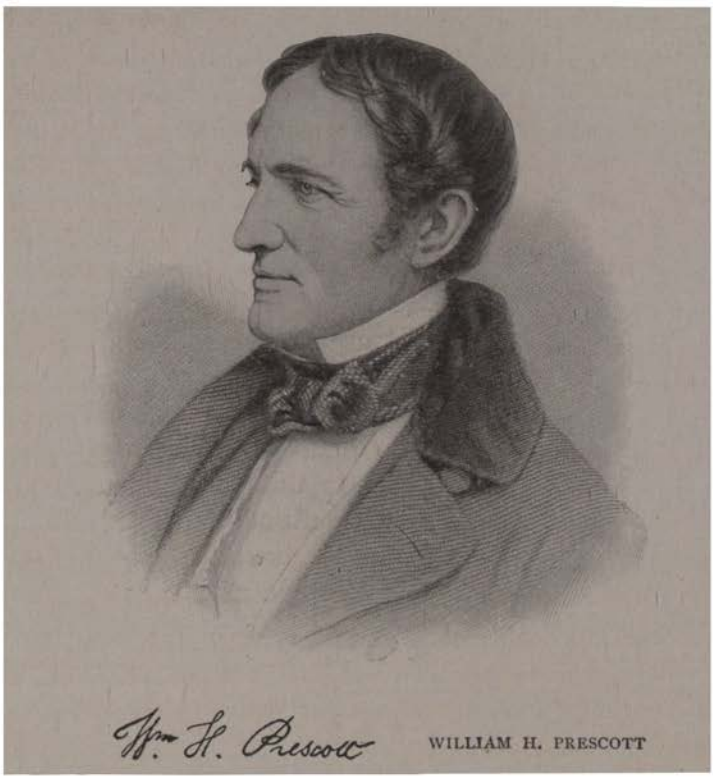
industry was chiefly seated, but in the West also, where men of every section met, and moved with quickened pace towards new objects and new developments till then not dreamed of. New ambitions stirred everywhere, and men's very manners were changed with the new haste and energy that swept them on.

Men's minds and consciences were stirred, also, by the pungent airs of the new age. Not in America only, but throughout the whole European world also of which she was an outlying settlement, the attention of thinking men was set upon new thoughts in that day of change. The year 1830 had seen political and social revolution sweep to and fro, hardly to be checked, upon the troubled European stage. England had managed, as always, to be beforehand with revolution, but only by making many a radical change in her laws. Between 1828 and 1836 she repealed the Corporation and Test Acts, removed many of the political disabilities of Roman Catholics, reformed representation in Parliament, abolished slavery in her colonies, bettered her system of poor relief, framed a liberal code for the reconstitution of municipal corporations, and abolished tithes. In the United States there was none of these things except slavery to be cleared away. State and federal constitutions alike had been purged from the first of all that could clog or embarrass progress. American philanthropists, too, had been beforehand with the rest of the world in many a work of humanity and mercy. The fame of America's reformed penitentiary system had crossed the seas; and in 1831 Alexis de Tocqueville and Auguste Beaumont had come to the United States to report upon the system for the information of their government. It was that visit which gave us de Tocqueville's inimitable *Democracy in America.*

The abolition of slavery in the British empire in 1833 brought poignantly home to some men in the United States the one matter in which America was behind all the world. It was in 1833 that the American Anti-Slavery Society[1] was formed, at Philadelphia. Not

[1] See page 233.

many connected themselves with it. Slavery was rooted deep in the whole economy of the South; the constitution of the Union itself was founded upon arrangements which took the permanence of slavery for granted; and no man who was not of hot crusading



WILLIAM H. PRESCOTT

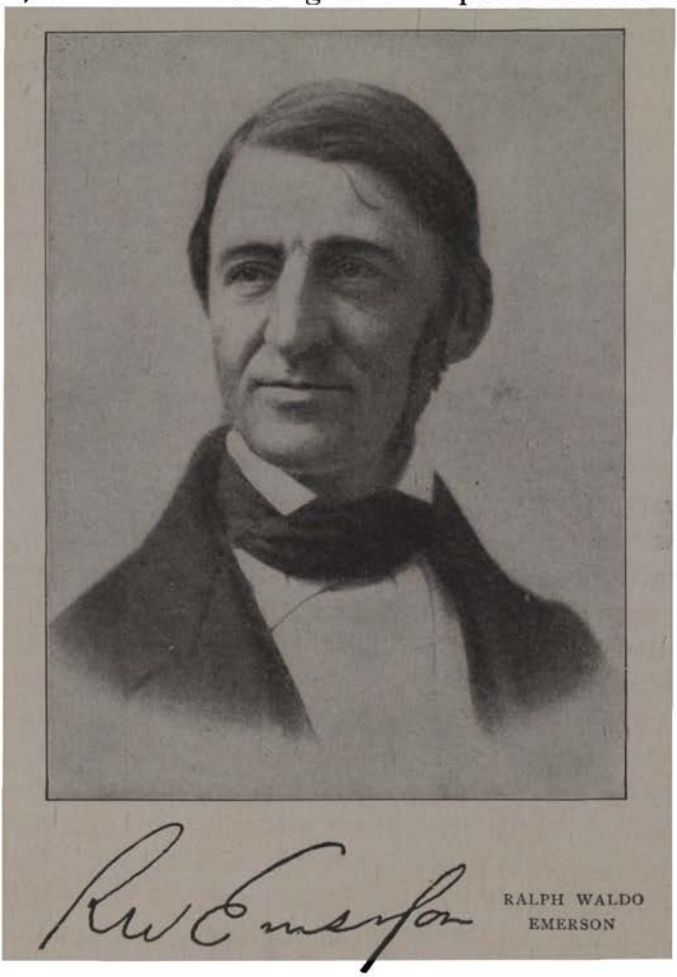
temper felt inclined to give any countenance to a movement which might, if pushed far enough, shake the very foundations of the government. But the few who gave themselves to the agitation were of crusading temper. Here and there throughout the country, moreover, there were bodies of men, like the Quakers,

whose principles had time out of mind been of this tenor, and who became at once their natural allies. Petitions began to pour into Congress praying that it would abolish slavery in the District of Columbia, prohibit the slave trade there, and break up the slave trade between the States. John Quincy Adams had entered the House of Representatives in 1831, only two years after he left the White House, as a representative of the Anti-Masons and Whigs of his home. A sturdy and striking figure he made, with all the dignity and all the contentious strength of his sixty-four years upon him; and it surprised no one, least of all his constituents at home, that he championed what he pleased, without respect of parties. It was he who presented the petitions against slavery and stood mettlesome and unalarmed amidst the wordy battles they brought on.[1]

It was a deeply hazardous and ominous thing to join issue thus, though it were only upon a petition here and there, with regard to this central matter of the whole South's life. The South still stood unchanged. No revolution of industry, no breath of speculation, no plotting or building of railways, no steam craft at her ports or on her rivers touched or altered her fixed order of society. Some of the first railways built were built in the South. Her merchants felt the impulse and saw the outlook of the time as others did. But no power from without, no alteration of the world beyond her borders, could change her economic and social order so long as slavery lasted. There was no aristocracy in the South of the kind men commonly think of when they use the word. There was a ruling race and a subject race; there were rich men and poor among the race that ruled; there went with wealth a certain ease

[1] See page 238.

and expansiveness of living, a good deal of quiet leisure, an old-fashioned grace and punctiliousness of



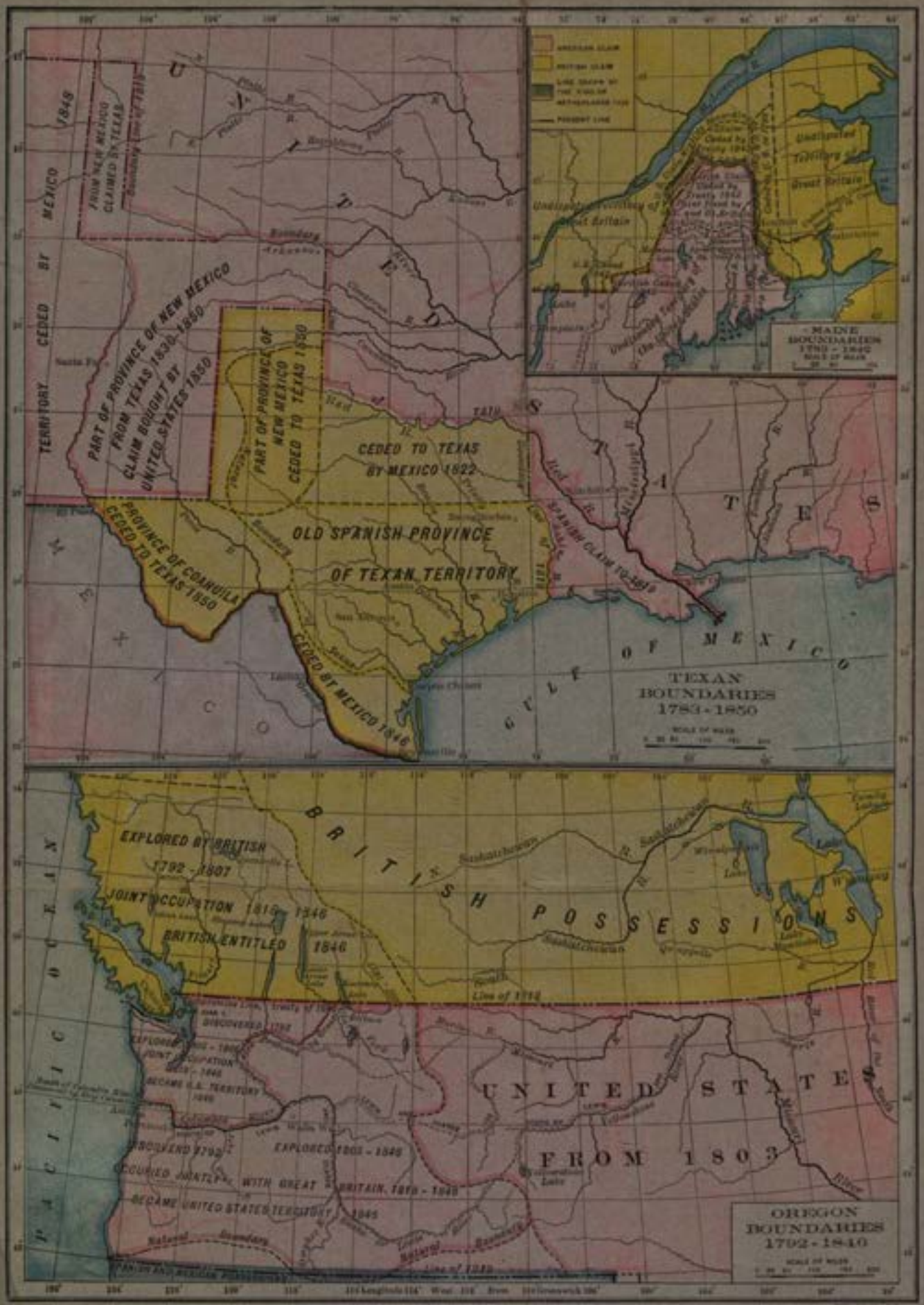
RALPH WALDO EMERSON

manner which gave to those who cultivated it an air of exclusiveness and elevation. Young men were apt to be arrogant and to have their fling in the world of pleasure, and old men showed sometimes a lofty pride

of birth and position. But there was little display Wealth did not in that agricultural region mean abundant money, but only full store-houses, a well stocked stable, an unstinted table, plain comfort, and open-handed hospitality. In politics the ruling race were as democratic as men of their kind anywhere. All white men had an equal footing of privilege there and an equal freedom, though offices fell as often to men of position whom fortune had put at the front as to men who had made their way up from the ranks and men who added ambition and initiative to ability.

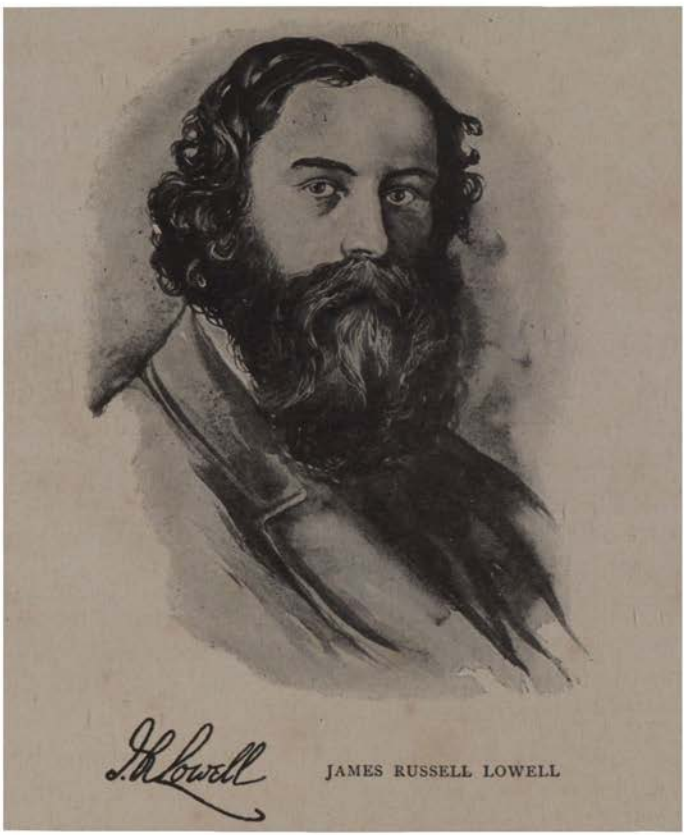
Mississippi and Alabama were still new States upon a frontier, and grew rapidly in population. Georgia, too, added slowly to her population from decade to decade, adding also to her industries and profiting as she could by the new forces of the age. But Virginia and the Carolinas grew scarcely at all. And so the South stood apart, potent and alive and yet immobile. Though she provoked attack, she was intrenched against it.

It was singular how the signs multiplied of change and a new age coming in. A whole generation of new writers came suddenly into prominence during those first years of railways and steam craft (1828–1841): Hawthorne, Poe, Whittier, Longfellow, Emerson, Lowell, Holmes, Prescott, Bancroft; Mr. Justice Story and Mr. Justice Kent; Henry Wheaton, Francis Lieber, Henry C. Carey; John James Audubon and Asa Gray,—men of letters, law writers, publicists, economists, men of science. Poe and Audubon were of the South; the rest were of the North, where leisure was coming with increase of wealth, stimulation of thought with increase of action. "You are a new era, my man, in your huge country," wrote Carlyle to Emerson. In


TERRITORY CEDED BY MEXICO 1848
PART OF PROVINCE OF NEW MEXICO FROM TEXAS 1838-1850 CLAIM BOUGHT BY UNITED STATES 1850
PART OF PROVINCE OF NEW MEXICO CEDED TO TEXAS 1838
CEDED TO TEXAS BY MEXICO 1822
OLD SPANISH PROVINCE OF TEXAN TERRITORY
PROVINCE OF COAHUILA CEDED TO TEXAS 1850
CEDED BY MEXICO 1846
SPANISH CLAIM TO 1803
TEXAN BOUNDARIES 1783-1850
MAINE BOUNDARIES 1783-1842
EXPLORED BY BRITISH 1792-1807
JOINT OCCUPATION 1818-1846
BRITISH ENTITLED 1846
BRITISH POSSESSIONS
Line of 1818
UNITED STATES FROM 1803
OREGON BOUNDARIES 1792-1840

TERRITORIAL CONTROVERSIES OF THE UNITED STATES, SETTLED BETWEEN 1783 - 1850

the South writers still bent all their thoughts upon statesmanship and the control of public policy; read old books and maintained an elder taste; made cultivation a thing of quiet moments or of the delights of con-



JAMES RUSSELL LOWELL

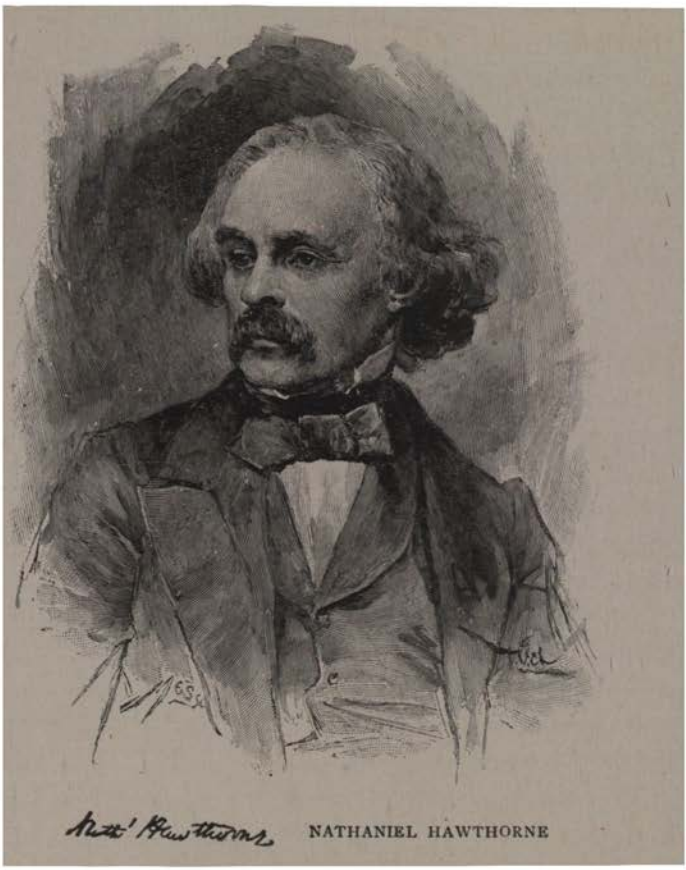
versation, and carried it forth into the open arena only as an instrument of power.

Every change seemed sensibly to increase the sweep and ascendency of pure democracy and visibly to enhance the power of the general opinion. By the close

of General Jackson's presidency there was no longer any property qualification anywhere required in the North for the exercise of the suffrage except in Connecticut and New Jersey, or anywhere in the West except in Ohio. The people's day had come; the people's eyes were upon everything, and were used in a temper of criticism and mastery. Newspapers of a new type sprang up, like the *Sun* and the *Herald*, every number of which gave old gentlemen in New York a shock, which pried into everything and told everything, whether it concerned private individuals or public events The upturning General Jackson had brought upon the government was beginning to come also upon society.

How serious the upturning had been in the administration of the government the country learned while Mr. Van Buren was President; and the discredit for what General Jackson had done fell upon him. The men whom General Jackson had put out of office had too often carried away with them the business methods of their Departments. The men who had succeeded them, always new and raw at their tasks, were too often incompetent also, and sometimes showed the cunning and dishonesty of men who seek the "spoils of office" for their own aggrandizement. It was Mr. Van Buren's misfortune that no discovery was made of the jobbery and misfeasance that had crept into the Departments until he became President. The "spoils" system, moreover, was commonly believed to have been the bad invention of his own school of politicians in New York. He attempted no concealments; no one was shielded or excused when discovery was made; but he got no credit for that. Everything that came to light was but con-

firmation added to the conviction of the country that both he and his party had best be got rid of. The Whigs were eager to give legislative assistance to the

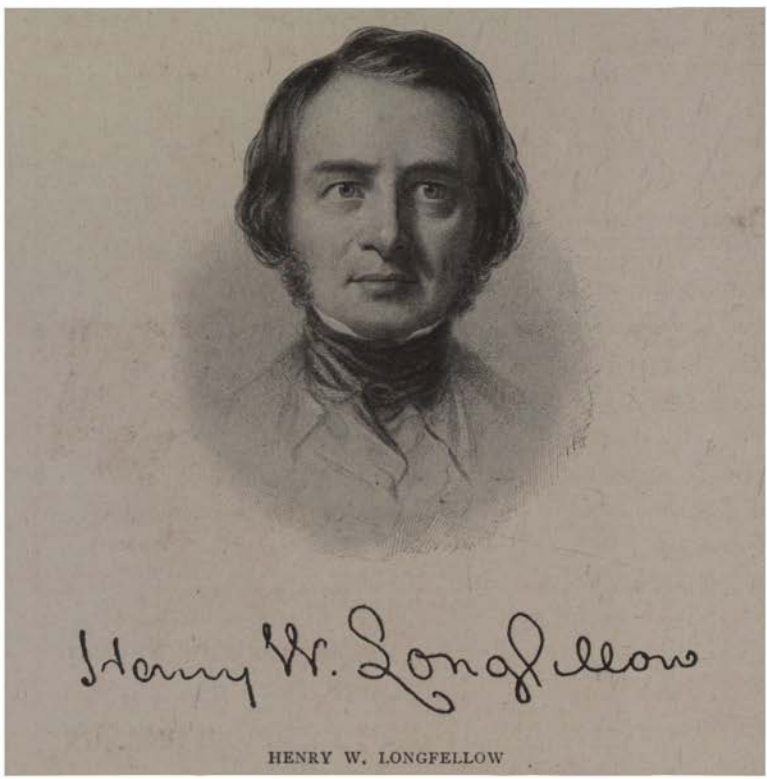


NATHANIEL HAWTHORNE

country in its efforts to rally from the collapse of 1837; the Democrats offered nothing but the Independent Treasury,—were very fine and steadfast in their determination to take nothing but "sound" money into the Treasury, but offered no suggestion as to where the

sound money was to come from, or how business was again to be founded on it.

The States were left to work that problem out for themselves, if legislation were needed; and a very wholesome change began. The legislatures of the States



HENRY W. LONGFELLOW

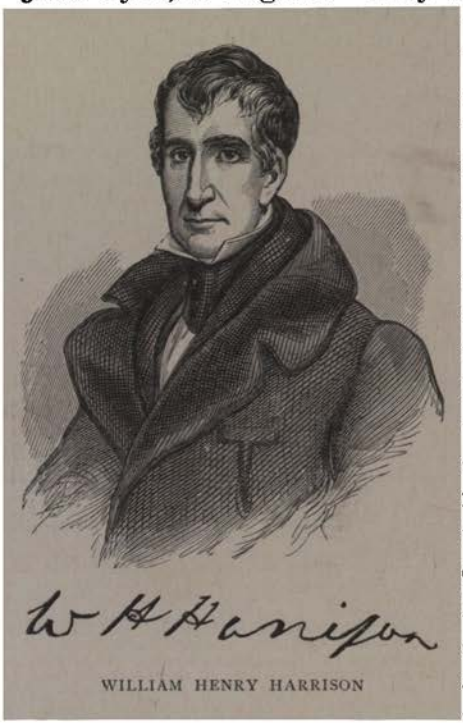
set themselves at last to require real securities of the banks of issue which they chartered, New York leading the way; and by slow degrees credit was re-established, panic shaken off. But the Democrats gained nothing by the circumstance as a national party. They seemed to have lost initiative when they lost General Jackson.

Mr. Van Buren had handled such diplomatic matters as fell to his management with prudence and good judgment. A final reckoning with the Seminole Indians of Florida had been brought to a successful close while he governed, and a serious boundary dispute with Great Britain had been accommodated, notwithstanding very distracting complications which had arisen out of attempts on the part of lawless men in the United States to assist insurgents who were openly in arms against the English crown in Canada. But only the irritating details of these matters were talked about. Nothing large or masterful filled the eye or stirred the general sympathy either in the President or in the men who spoke and acted for him in Congress; and the whole country turned to the Whigs for a change.

PRESIDENTIAL TICKET, 1840

The Democrats nominated Mr. Van Buren for a second

term and avowed all their negative principles in a candid platform. The Whigs, now at last welded into something like a united and aggressive party, nominated General Harrison, for whom most of them had voted four years before, for President, and for Vice President Mr. John Tyler, of Virginia. They made no declaration of principles whatever, but proposed only to oust the Democrats. The country was willing. General Harrison was the hero of well remembered battle in which that redoubtable chief called the "Prophet" of the Indians who hung upon the northwestern frontiers, had been routed, in 1811, and the western country quieted and made safe. He had himself been dubbed "Tippecanoe," and men everywhere were ready to shout very lustily for "Tippecanoe and Tyler too." The Democrats had no enthusiasm with which to match this for the old soldier and honorable gentleman of the elder type whom their opponents had chosen as their candidate; had only their dimmed record to speak of; and lost overwhelmingly. General Harrison, it is true, got but forty-six thousand votes more than Mr. Van Buren



WILLIAM HENRY HARRISON

received out of a total of nearly two and a half millions; but, though his margins were slender, counting by voters, he won in the electoral college by a majority of one hundred and seventy-four out of a total of two hundred and ninety-four (234–60). The Whigs saw their day dawn at last, and the Jacksonian régime was over.

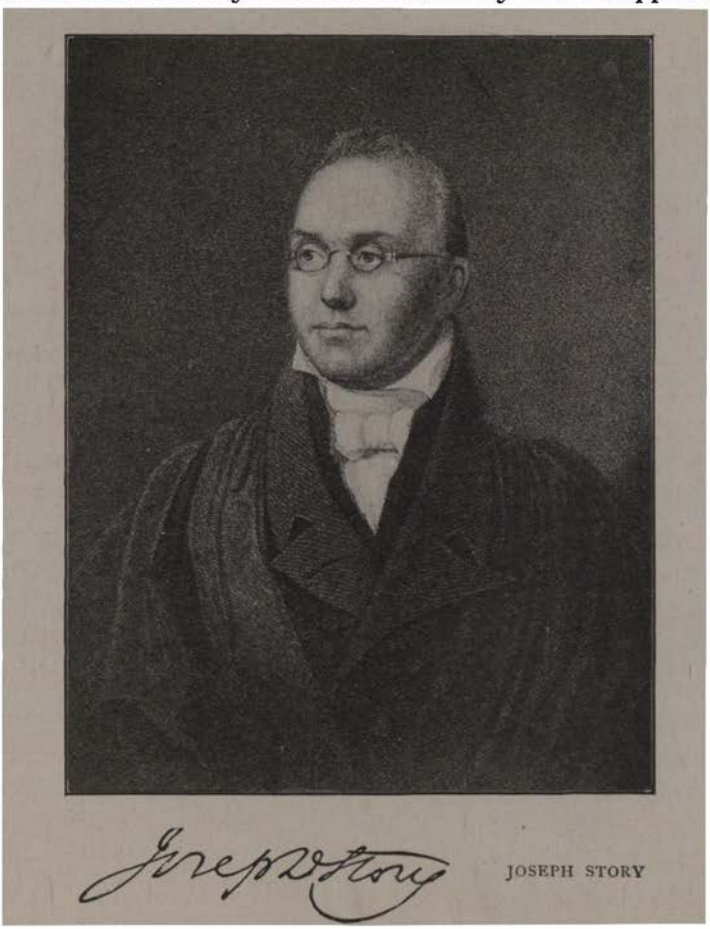
The *authorities* and *sources* for the events of this chapter are the same as those named under Chapter II. The following special authorities should, however, be added: the second volume of Albert S. Bolles's *Financial History of the United States;* Richard Hildreth's *Banks, Banking, and Paper Currency;* William G. Sumner's *History of American Currency;* Edward G. Bourne's *Surplus Revenue of 1837;* Goddard's *Bank of the United States;* C. F. Dunbar's *Laws Relating to Finance;* Shosuke Sato's *Land Question* in the fourth volume of the *Johns Hopkins Studies in Historical and Political Science;* and Samuel Tyler's *Life of Roger B. Taney.*

III

THE EXTENSION OF SLAVERY

IT remained to be seen whether the forces bred in the Jacksonian time were also spent and gone, with the passing from office of the men who had personified them. It was difficult to reason upon cause and effect amidst such scenes of change. Unquestionably a veritable revolution had been wrought in American politics and social action while Jackson and his partisans ruled in affairs; but who could say whether these men had been products or causes of that revolution? No doubt there had been an air of lawlessness in the headstrong action of the uncompromising, frontier soldier who had been President. The fruit of his rough handling had shown itself obviously enough during the mild reign of his lieutenant and successor. And the country had seemed to take its cue from General Jackson. Riot and brawling disorder had everywhere been thrust into affairs with unexampled boldness, success, immunity from punishment. Headstrong men sought everywhere to take the law into their own hands and do what seemed best in their own eyes,—used force to win strikes against their employers, to carry elections, to silence abolitionist agitators and drive free negroes out of the cities, to destroy the power of the Roman Catholics coming in at the ports, to punish offences

which the courts too slowly dealt with or let go by, to get food when prices rose too high. Men fought in armed bands in city streets because they were of opposite



JOSEPH STORY

religious creeds or rival political factions or antagonistic races, the native against the immigrant, the Protestant against the Roman Catholic. On a memorable night in August, 1834, an Ursuline convent in Charlestown,

within sight of the rising shaft on Bunker Hill which was to mark the dawn of liberty in America, had been sacked and put to the torch, because of the rage of a Protestant mob against the growing power of the Romish church, coming in with the Irish immigrants; and the officers of the town had stood inactive by.

No man could justly say that General Jackson stood for such things. He kept the law, as he understood it, very punctiliously and with a fine sense of honor, and made others keep it also. His challenge was only to those who opposed him in matters of policy or in the application of law, or sought to put upon him the too formal restraints of judicial decision. Those who judged calmly of affairs saw alike in him and in the uneasy disorders of the time only signs of one and the same thing. In the new democracy which Jackson represented the mass of common men took leave to assert themselves in all things, and use their own standards of right; brushed law aside upon occasion to get at their object; sought to rectify abuses by direct blows of force,—the force of voting numbers or the force of arms. No doubt riots grew more common in Jackson's second term than they had been in his first, and seemed to keep pace with his fight against the Bank, his arbitrary use of authority in reaching his ends concerning it, his ruthless dealings with the credit of the country. No doubt, too, his friends and partisans spoke too foolishly and too much like demagogues of "the natural hatred of the poor to the rich." But great economic forces moved also with equal pace towards change and disturbance. The relations of capital and labor were altered, whether General Jackson acted or not; prices rose and wages shifted by laws he did not understand.

Railways changed the course and the speed of the nation's life; enterprise set men's minds upon every bold adventure; men of every kind flung conservatism off and became radical, reckless, ungoverned in action. Cause and effect were not in such a day to be easily distinguished. No one could say what was permanent, what merely temporary and accidental in the new and novel order. One thing only was evident, that a new and irregular fervor and a new standard of action had been brought into affairs.

The Whigs themselves had conformed. They had come into power in masquerade. Instead of putting one of their real leaders forward for the presidency, they had nominated a western soldier, whose rugged strength and simple claim upon the admiration of the country had made him a popular favorite. They had themselves played the rôle of a reforming Opposition merely, whose mission it was to turn a company of sophisticated politicians out of office, with all their corrupt and incapable following, and put a simple man of the people in,—a Whig Jackson. Their campaign had been conducted without serious debate or proposals of policy; had been a mere noisy round of torch-light processions, merry-making barbecues, and boisterous neighborhood rallies. Their emblem had been the frontier log cabin and a keg of hard cider, the solacing drink of the frontiersman. It was a masquerade of pure democracy, in the new taste, and they had played it out to perfection.

But when the election was over and they had won, the costumes of the play were put by. At last they were assured of majorities in both houses of Congress; small majorities, indeed,—in the House, twenty-five,

in the Senate, six, — an uncomfortable reminder of the narrow margin of votes by which they had won; but a working majority, none the less; and the real leaders of the party, once more free to speak their serious purposes, came forward with the programme by which they meant to carry the government back to the traditions which the Democrats had ruthlessly broken.

That programme included the repeal of the Independent Treasury Act, the establishment of a new national bank, the authorization of an immediate loan for the relief of the Treasury, a system of new tariff duties to supply the government with a permanent revenue, and the distribution among the States of the proceeds of the sales of the public lands. The financial distress of the time had touched the government somewhat sharply, and General Harrison's first act was to summon Congress to meet in extraordinary session on the last day of May, to consider measures of relief.

But before it could assemble he was dead, and every plan at which he was to have assisted had fallen into confusion. The excitement and the fatigues of the campaign for the presidency, capped by the infinite worry and exhaustion that came upon him like a flood when hordes of office seekers and advisers began to crowd about him after his election and induction into office, proved too much for his strength at sixty-eight. He suddenly sickened, and exactly one month after his inauguration (April 4, 1841) was dead.

John Tyler was President, to whom no Whig had looked for leadership. He was a southern Democrat; had been opposed to the Bank upon principles of public policy, as General Jackson had been, but had held off from his leader in the matter of the deposits and had

disapproved his reckless blows at credit, no less than his masterful attitude towards Mr. Calhoun and the doctrines held in South Carolina; and had been named Vice President with General Harrison only because Whigs of Mr. Clay's stamp knew that they had in their following many men who were not in all matters of

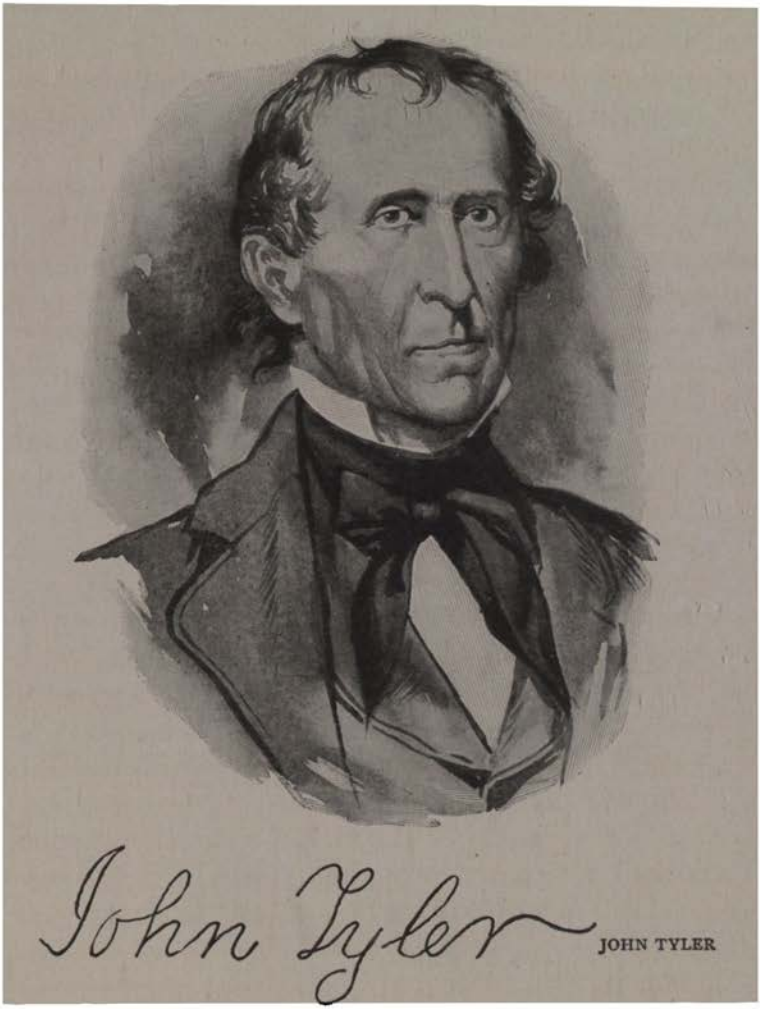
CAMPAIGN SYMBOL OF 1840

their way of thinking, and were uneasily aware that their party was but a conglomerate party of opposition, to which the votes of such discontented or independent southern Democrats as Mr. Tyler would be very serviceable. And so the masquerade of the campaign had had a touch of prophecy in it, after all: here were the triumphant Whigs with a Democratic President!

Their programme, of course, hopelessly miscarried. Mr. Tyler felt very keenly the delicacy of his position, and the almost necessarily compromising character of the middle course he felt bound to attempt. Nature and habit forbade him the frank, straightforward, unhesitating course which alone could have won him prestige and credit. He had neither initiative nor audacity enough for leadership; tried soft-spoken diplomacy where he should have used candid avowals of his real opinion; courted compromise and accommodation only to reject them at last; insisted upon his own views only after he had created the impression that he would yield them; seemed false and insincere because he parleyed so long before taking his stand; and pleased no one, not even himself. He had been glad to see the Bank's charter expire in 1836, and did not wish to see the Bank re-established now; but the Whig leaders were his advisers; he felt and showed a real desire to yield everything he could that stood in the way of their plans. Conference followed conference in the matter of the Bank, for upon that everything hinged; twice he seemed about to meet their wishes; twice he failed them. A bill was drawn and passed in which several features of the old charter were modified to suit his views, but he vetoed it (August 16, 1842). Another bill was drawn and passed which made concessions still more radical to his scruples, but again he vetoed it (September 9th). Each time he hesitated; each time his friends said that he would sign the bill; each time he fell back at the moment of final action, as was his wont, upon his real convictions.

The Whigs in Congress were inexpressibly chagrined and exasperated; publicly declared, with an unmis-

takable note of passion, that "all political connection between them and John Tyler was at an end from that



JOHN TYLER

day forth"; and sullenly saved such remnants of their programme as they could. Even before the open breach came the leaders of the party had drawn away from

him, and he had been cut off from all real intimacy of counsel with the men whom Congress heeded. General Harrison had associated with himself a cabinet made up of men who were known to be accredited spokesmen of the party, making Mr. Webster, whom half the country regarded as the greatest of Whigs, his Secretary of State; and Mr. Tyler, sincerely desirous of making as slight a break as possible in the continuity of the party's policy, had asked these gentlemen to retain their places. But even before his final veto of the Bank bill they had found it impossible to regard themselves as really in his confidence. By the middle of September, 1841, all of them had withdrawn except Mr. Webster, who remained only until important negotiations with England touching the northeastern boundary should have been brought to a successful issue. The Whigs had in effect withdrawn their hands from the Executive. Not only was the President's leadership gone, but the best traditions the Whig leaders stood for, of a policy which joined Congress and the Executive under a common leadership, were broken, and affairs were set adrift to take the chance currents of politics.

The President signed the bill for the repeal of the Independent Treasury Act, consented to the necessary loan and to the changes in the tariff which had been planned, and agreed to the distribution among the States of the moneys received from sales of the public lands. But, without the bank, these measures lacked all constructive efficiency. The Independent Treasury arrangements having been set aside, and no other fiscal agency having been provided or authorized, the way in which the revenues should be kept and handled was left entirely to the discretion of the Treasury, without

guidance or restraint of law, throughout all the rest of Mr. Tyler's administration.

The Whig tariff Act was passed at the regular session of 1841–1842. It incontinently upset the compromise arrangements of 1833. The Act of 1833[1] had provided

THE HANCOCK HOUSE, BOSTON. FROM A SKETCH MADE IN 1833

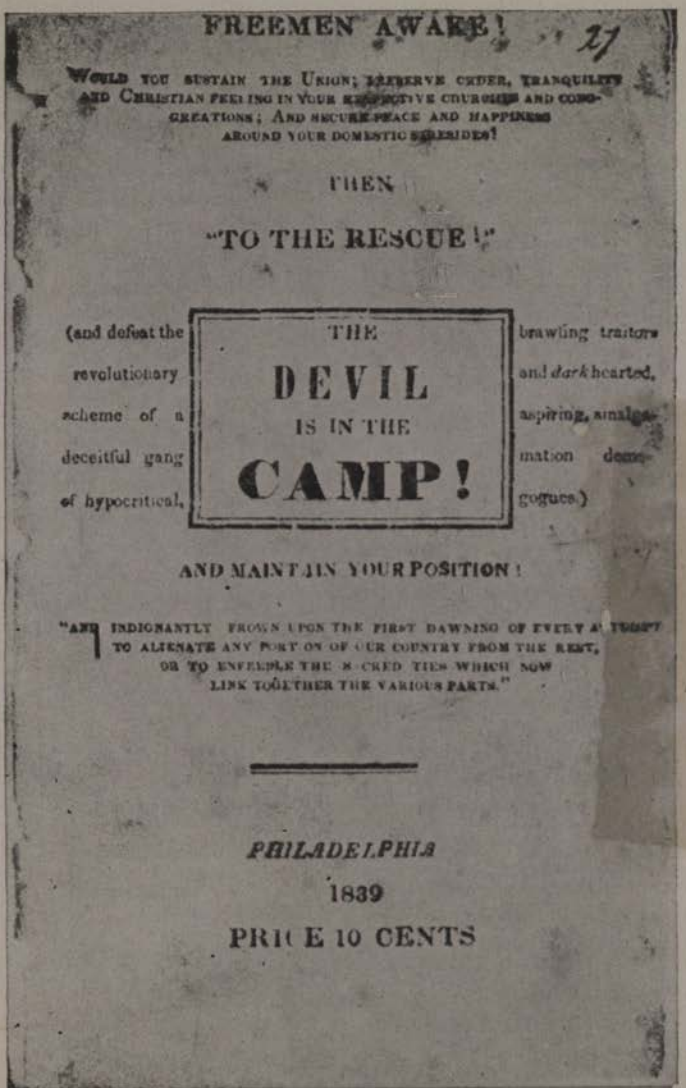
for a progressive reduction in the rates of duty which should be complete by the first of July, 1842, when the rates should have reached a uniform level of twenty *per cent.* The Whigs suffered them to stay at that level only two months. On and after the first of September following, it was enacted, the rates were to be increased again, for the sake of the revenue. Twice the President vetoed the bill, because of provisions contained in it of

[1] See page 216.

which he did not approve. It was passed a third time, without the provisions he objected to, and he signed it.

From the outset, so soon as the democratic masquerade with which they had come in was over, opinion had run against the Whigs. So early as the autumn of 1841 local elections had begun to go against them in States which they had but just now carried for General Harrison; and the mid-term elections of 1842 swept away their majority in the House of Representatives. It had been but twenty-five; it was supplanted now by a Democratic majority of sixty-one,—a loss of forty-three seats. The Senate they still held by a narrow margin; but, without the House, they could do nothing of consequence. Their dream of reconstructing the old régime from which the Democrats had torn the country away was rudely dissipated.

The Whig leaders were now to find out what changes of politics had come to stay. They had not perceived that what they had witnessed under General Jackson was not a temporary madness of reaction against the statesmanship and the ideals of the generation which had given the nation its first form and policy, but a permanent shifting of points of view, for men in office and out, a turning away once and for all from the old to new questions that went with the making of the nation. Whether they would or no, they were in the hands of the new democracy, their fortunes as a party committed to the swift changes of the passing time. Important as the matters were with which they dealt, their programme had been a programme of old questions, not of new. Change worked too swiftly now to make it any longer possible for any party, however led or constituted, to hark back to the policy of a time twelve



FREEMEN AWAKE!

WOULD YOU SUSTAIN THE UNION; PRESERVE ORDER, TRANQUILITY AND CHRISTIAN FEELING IN YOUR RESPECTIVE CHURCHES AND CONGREGATIONS; AND SECURE PEACE AND HAPPINESS AROUND YOUR DOMESTIC FIRESIDES!

THEN

"TO THE RESCUE!"

(and defeat the revolutionary scheme of a deceitful gang of hypocritical,

THE DEVIL IS IN THE CAMP!

brawling traitors and *dark* hearted, aspiring, amalgamation demagogues.)

AND MAINTAIN YOUR POSITION!

"AND INDIGNANTLY FROWN UPON THE FIRST DAWNING OF EVERY ATTEMPT TO ALIENATE ANY PORTION OF OUR COUNTRY FROM THE REST, OR TO ENFEEBLE THE SACRED TIES WHICH NOW LINK TOGETHER THE VARIOUS PARTS."

PHILADELPHIA

1839

PRICE 10 CENTS

TITLE-PAGE OF ANTI-ABOLITION PAMPHLET

years gone by. There had been transient humors, no doubt, as well as permanent alterations of fortune, in Jackson's day: things which came with the heady excitements of the time and sank away again as affairs steadied to the new order. But, though passions subsided and hasty errors fell away from men's thoughts as the air cooled and cleared, all things kept their new face, and the reckonings of politics could no more be forced back to their old scale than the reckonings of trade or the operations of credit. It was made evident enough while Mr. Tyler sat out his unexpected presidency that the questions which cried for settlement were no longer questions of banking and currency, or even questions of tariff, but the fundamental institutional choices of mere growth: the questions which went inevitably with the setting up of every new State and the occupation of every new piece of territory.

It was this making and remaking of the country that had upset the old order of politics and brought the untempered airs of the West into all forecasts of the political weather. Half the economic questions of that day of change took their magnitude and significance from the westward expansion. It was in the new regions of the country, with their undeveloped riches inflaming the imagination, that speculation ran its reckless course with the most incorrigible hardihood. Railways outran population and failed as investments because settlement spread rather than compacted. Statesmen had always to be studying some law of growth, checking or indulging some wild adventure of enterprise. And there was in the midst of all a fundamental choice which did not alter like the rest.

The chief choice always to be made at every stage

of the unhalting westward movement was the choice concerning slavery: the choice which had been debated very temperately at first when the great Ordinance for the government of the Northwest Territory was adopted in the days of the Confederation, but which had struck many a spark of passion out when handled again at the admission of Missouri into the Union, and which seemed every time it was touched more dangerous and disturbing than before. Now it seemed to lie everywhere at the front of affairs,—not the question of the abolition of slavery, but the question of its territorial extension. The men who had formed the Anti-Slavery Society were frank abolitionists; demanded much more than the mere limitation of the area of slavery; set themselves to make sentiment for its absolute destruction. But their ranks were sparsely filled, and their agitations did little but offend a practical, law-abiding people. Every man who knew aught of affairs knew the tenor of the constitution in that matter. Slavery within the States which were already members of the Union was an institution with which the federal government could have nothing to do, which no opinion even could touch or alter save the opinion of the States concerned: a question of domestic law in respect of which the choice of each little commonwealth was sovereign and final. Had the full roster of the States been made up, agitators in Congress would have found themselves obliged to confine their attacks to the slave trade in the District of Columbia and the commerce in slaves between the States. But the full roster of the States was not made up: all the great Louisiana purchase remained to be filled with them; and with the making of every community there must come again this question

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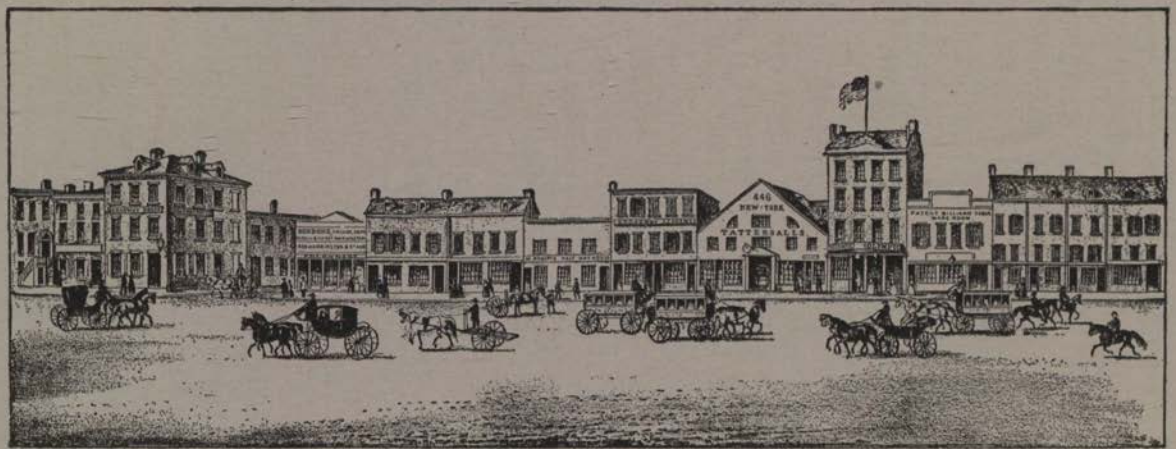
of the freedom of labor or the extension of slavery. The fateful choice was always making and to be made.

The Whig leaders were profoundly disturbed to see it thrust forward in very practical shape, made a thing to be faced squarely and at once, by the President whom they had undesignedly put into office. In April, 1844, Mr. Tyler sent to the Senate a treaty of annexation which he had negotiated with Texas.[1] Secret negotiations, a piece of business privately carried to completion and made public only when finished, suited well with the President's temper and way of action. A man naturally secretive, naturally fond, not of concealments, but of quiet and subtile management, not insincere, but indirect in his ways of approach, he relished statecraft of this sort, and no doubt liked the Texan business all the better because it seemed to demand, in its very nature, a delicate and private handling. The Senate rejected the treaty by the very decisive vote of 16 to 35, men of both parties alike deeply irritated that the President should spring this weighty matter upon the country in such a fashion, taking no counsel beforehand save such as he chose to take. But the question, once put definitely forward, could not be thrust aside again. It was too vitally connected with the mastery of the continent, too plainly a thing which lay at the heart of western plans, to be put aside by vote of the Senate. It had come to be fought out as a party issue; and the Democrats were better prepared for it than the Whigs. They were at least capable of exercising choice. The Whig party was too curiously and too variously compounded to meet any new question without painful hesitation and deep embarrassment.

Texas had sprung up, a young empire at the south-

[1] See page 271.



BROADWAY, EAST SIDE, BETWEEN GRAND AND HOWARD STREETS, NEW YORK, 1840

west, within a decade. No doubt all the vast region which she claimed and dominated had in strict right been a part of the broad, vague "Louisiana" which Mr. Jefferson had purchased of France in 1803; but the United States had yielded their claim to it in 1819, in order to secure all of Florida in the treaty with Spain. Mr. Adams, then Secretary of State, New Englander though he was, had wished to insist upon setting the southwestern boundary of the United States forward to the Rio Grande del Norte; but Mr. Monroe, the President, southerner though he was, had thought it best, as the rest of his cabinet did,—Mr. Crawford, of Georgia, Mr. Calhoun, of South Carolina, and Mr. Wirt, of Virginia, among them,—that the East should not be so disquieted. "Having long known the repugnance with which the Eastern portion of the Union have seen its aggrandizement to the West and South," wrote Mr. Monroe to General Jackson, "I have been decidedly of the opinion that we ought to be content with Florida for the present." He had seen then that it was only "for the present"; and he had irritated the South and West more than he had pleased the East. By abandoning a full third of the Louisiana claim he had made the Missouri compromise of the next year (1820) no settlement at all, but merely a new point of departure in the struggle for the extension of slavery and the expansion of the South. In the drawing of that line of compromise the southern men had gained hardly so much as one fourth of what had been conceded to the northern interest, and the balance of power between the sections remained still to be redressed.

Texas did not remain the property of Spain. While the treaty of 1819 lay unconfirmed at the dilatory court

of Madrid, the people of Mexico broke away from their allegiance to the crown of Spain (1821) and established their independence, sweeping Texas within their dominion. In 1825 Mr. Adams offered Mexico a million dollars for the territory, but got nothing for his offer but the jealous distrust of the new government. General Jackson offered five millions for it, and only intensified the distrust. In 1827 the "State of Coahuila and Texas" became a member of the Mexican federal union.

At first, to get increase of strength in her struggle with Spain, Mexico had encouraged immigration out of the United States. At first her law permitted slavery. When she grew fearful of the too strong desire of the United States for Texas she shut her doors, so far as law and ordinance could shut them, against immigrants out of the East. To win favor with the negroes of Hayti against Spain, she abolished slavery. But immigrants were not to be gainsaid; that long border could neither be watched nor guarded. Slaves came with their masters, too, and Mexican laws had to be suspended for the benefit of the Americans, who would not heed them.

The masterful men who poured in across the long border came for the most part from the southern States. They found Mexican rule a thing sore to bear, arbitrary, inconstant, without principle, without stability of power. As their numbers increased, therefore, they made bold to take things into their own hands; framed a constitution for Texas which was to their own liking; and, when they could not obtain the sanction of the Mexican government for it, put it into operation without sanction (1833), making a revolution out of the right of local self-government. In 1836, the government of Mexico being overturned and Santa Anna, its President, made dictator

in his own behoof, they seceded, and made good their independence in a battle (San Jacinto, April 21, 1836) which the usurper was not likely to forget. With bowie

GENERAL SANTA ANNA

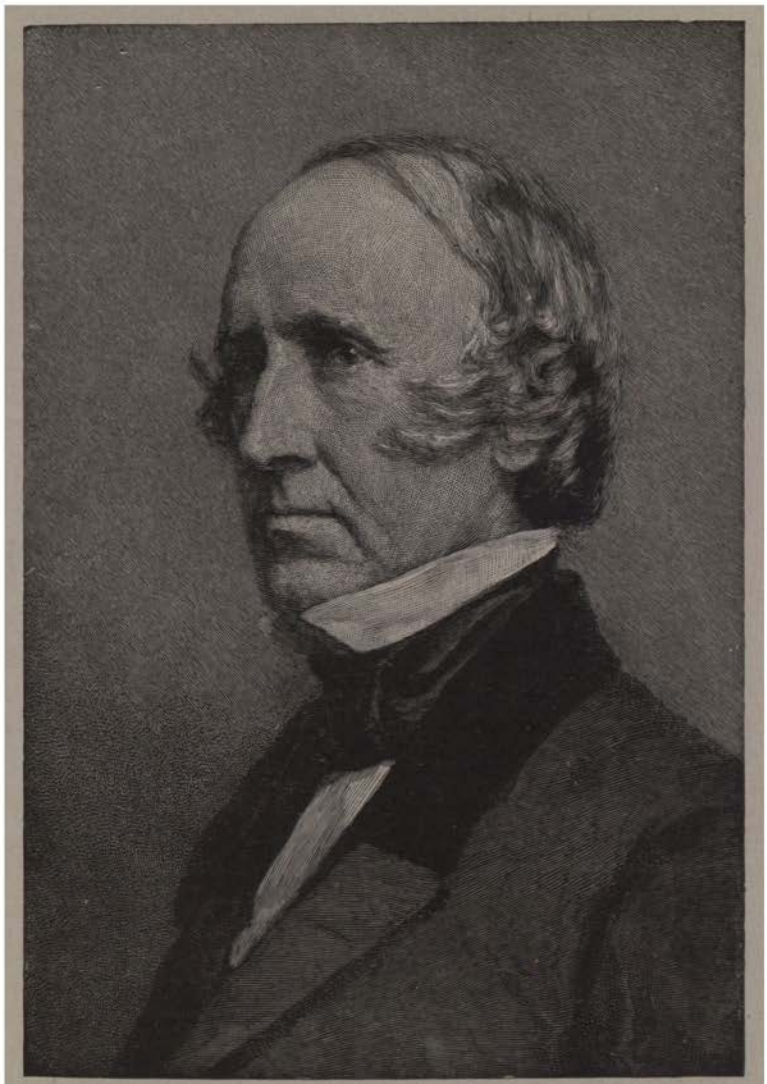
knives and clubbed rifles, a little army of seven hundred and forty-eight Texans, under the redoubtable Sam Houston, fell in true frontier fashion upon the sixteen hundred Mexicans Santa Anna had brought against

them; left about six hundred of their enemies dead upon the field; gave themselves more than two hundred wounded Mexicans to take care of when the dreadful work was over; took seven hundred and thirty prisoners; and had the dictator himself to show for trophy. Of their own number but six were killed and twenty-five wounded. "I was thirty years too soon!" cried Aaron Burr, when the news was brought him in his solitude,—an aged man, ostracized, forgotten.

The European states which coveted her trade recognized the independence of Texas the next year (1837). General Jackson recognized it as promptly. He took counsel, after his masterful fashion, neither with Congress nor with any one except the friends of Texas herself. He was himself General Houston's friend, and had no doubt what countenance the Executive of the United States should give the chief of the new state. Texas was her own mistress in her own empire.

But the men who had peopled her out of the South had not taken possession of her government to maintain themselves in independence. They had taken possession in order to bring the fair territory into the Union to which they conceived her properly to belong. Her broad expanses were the natural growing ground of the South. The political advantages the South would reap from the addition of Texas to the Union were palpable and obvious,—so palpable and obvious that politicians in the East deemed her virtual conquest by southern men a concerted scheme for southern aggrandizement. Only by the addition of territory and the creation of new states south of the line drawn by the Missouri compromise could the South hope to preserve that equality between the sections in the Sen-

ate upon which she instinctively felt her safety, the integrity and even the continuance of her chosen ways of life, to depend. The vast area of Texas, big enough for half a dozen states, would be a make-weight indeed, and was a stake worth playing for. It looked to the rest of the country as if the South had deliberately played for it, using lawless and ambitious men as pieces in the game. It was said that General Houston had gone from his home in Tennessee, a disappointed and discredited man, expressly "to kindle an internal insurrection" out of the inflammable material sent ahead of him, "and separate Texas from Mexico." Like every frontier, the country teemed with men come for adventure, and not too squeamish of what sort it should be. Those who were suspicious felt sure they had come for a particular adventure planned beforehand,—that Texas had been garrisoned with conspirators to serve the ambition of the South. She had in fact come by her settlers out of the States like any other frontier. Her independence came as inevitably as the unpalatableness of Mexican authority to the temper of the new comers. The proposal to bring her into the Union came from men who had taken possession of her, not to secure independence, but only a new home where they should be as free as Americans within the border they had crossed. The matter had been broached to Mr. Van Buren; but he had read the signs of the times and had declined to have anything to do with it. Mr. Tyler took it up with a certain eagerness. A southerner himself, bred to the southern point of view, holding the constitutional doctrines of the South very absolutely and in a form almost as radical and unqualified as that in which Mr. Calhoun, now his Secretary of State,



Wm Dell Phillips

WENDELL PHILLIPS

had uttered them, in defence of nullification, and minded to maintain the old balances of the federal system where he could, the annexation of Texas seemed to him a step which every statesman should wish to take.

Texas stood ready to accept a separate rôle should her overtures be rejected. Should the jealousy of warring parties exclude her from the Union, "a rival power will soon be built up," said General Houston, "and the Pacific as well as the Atlantic will be component parts of Texas in thirty years. . . . All the powers which either envy or fear the United States would use all reasonable exertions to build us up as the only rival power that can exist on this continent." The long coast of the Pacific above her was open to be occupied: she could look forward to having the Californias and New Mexico for the taking. "They must come," her confident leader declared; "it is impossible to look on the map of North America and not perceive the rationale of the project."

But she was not left to try the experiment. Though the treaty which he submitted to the Senate failed when it came to the vote, in June, 1844, Mr. Tyler had brought Texas in within less than a twelvemonth after its rejection. The summer of 1844 had brought together again the nominating conventions of the parties, to make ready for the next presidential election; and the Senate had waited to vote as the Whig convention should wish it to vote. The Whig convention had said nothing about the annexation of Texas in its declaration of principles, but it had put Mr. Clay in nomination for the presidency, and Mr. Clay, whom all the party knew to be its real leader, had decided against any immediate step towards annexation. The Democratic convention,

FIFTY REASONS

WHY THE

HONORABLE HENRY CLAY

SHOULD BE

ELECTED PRESIDENT

OF THE

UNITED STATES.

BY AN IRISH ADOPTED CITIZEN.

George C. Collins

"The honest, patient, and industrious German readily unites with our people, establishes himself on some of our fat lands, fills a capacious barn, and enjoys in tranquillity the abundant fruits which his diligence has gathered around him, always ready to fly to the standard of his adopted country, or of its laws, when called by the duties of patriotism. The gay, the versatile, the philosophical Frenchman, accommodating himself cheerfully to all the vicissitudes of life, incorporates himself without difficulty in our society. *But, of all foreigners, none amalgamate themselves so quickly with our people as the natives of the Emerald Isle.* In some of the visions which have passed through my imagination, I have supposed that Ireland was originally part and parcel of this continent, and that by some extraordinary convulsion of nature it was torn from America, and, drifting across the ocean, it was placed in the unfortunate vicinity of Great Britain. The same open-heartedness, the same careless and uncalculating indifference about human life, characterizes the inhabitants of both countries. Kentucky has been sometimes called the Ireland of America. And I have no doubt that, if the emigration were reversed, and set from America upon the shores of Europe, every American emigrant to Ireland would there find, as every Irish emigrant here finds, a hearty welcome and a happy home."

Extract from Mr. Clay's *Speech in the Senate, Feb.* 1839.

BALTIMORE:

PRINTED FOR THE AUTHOR.

1844.

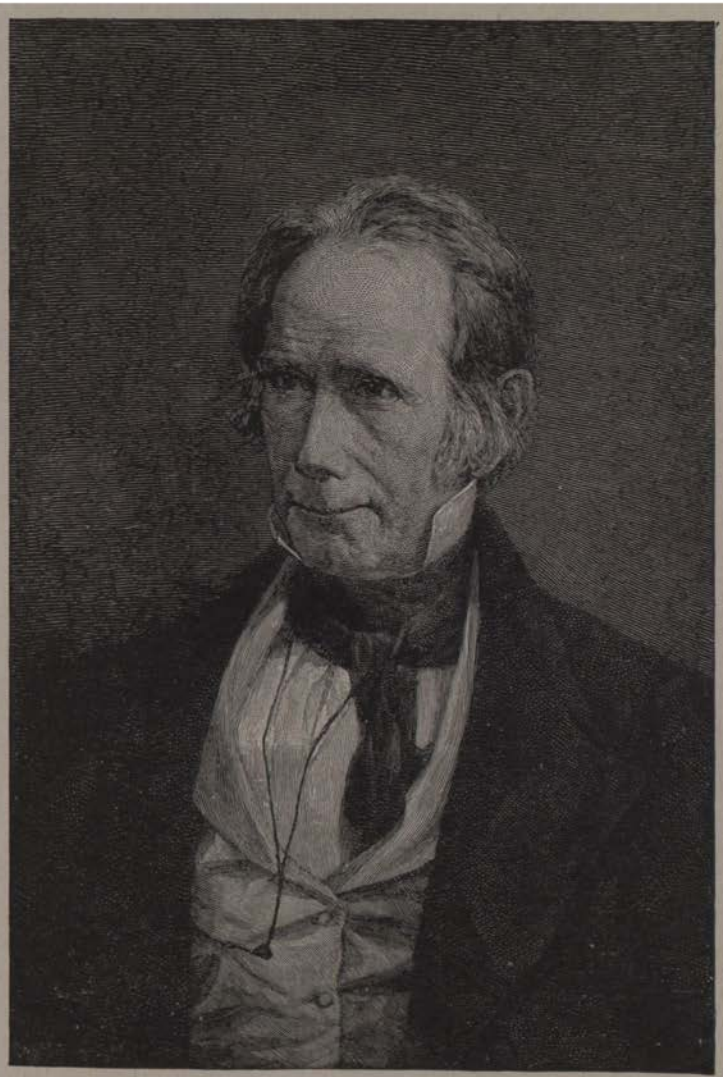
MURPHY, PRINTER.

TITLE-PAGE OF A CAMPAIGN PAMPHLET

more bold and candid than the Whig, declared very flatly for "the reoccupation of Oregon and the reannexation of Texas at the earliest practicable period" and made those critical matters distinct as the real issues of the campaign. Unable to agree upon any one of the recognized Democratic leaders for the presidential nomination, it named Mr. James K. Polk, of Tennessee, as the candidate of the party, a man long prominent in the Democratic ranks in the House of Representatives, and an avowed advocate of annexation. Mr. Clay shifted uncomfortably as the fight went forward; explained his position overmuch; sought to conciliate opinion on both sides; and lost support where he had seemed most likely to receive it. The abolitionists had brought a "Liberty" party into existence, and now put a candidate of their own into the field. They drew their strength more from the Whigs than from the Democrats, and their ranks were swelled more and more as Mr. Clay made doubting Whigs more and more uneasy. Their sixty thousand votes decided the election. Mr. Polk spoke but one purpose, showed himself a frank, unhesitating party man, held his followers to an open path, and, by narrow majorities, won in fifteen out of the twenty-six States.

It was when the campaign was over and the election decided that Mr. Tyler had the satisfaction of himself bringing Texas into the Union. The country had given its verdict; the houses, accepting the verdict, passed a joint resolution in favor of the admission of Texas; and the President signed the resolution on March 3, 1845, the day before Mr. Polk entered upon the succession.

It remained for Mr. Polk to deal with the consequences.



H. Clay

HENRY CLAY

The programme of his party seemed to have saddled two wars upon him. Mexico would quite certainly

TITLE-PAGE OF "THE CLAY SONGSTER"

contest the boundary claims of Texas at the south; and the Democratic programme coupled "the reoccupation of Oregon" with "the reannexation of Texas,"—a matter which very likely held at its heart a war with

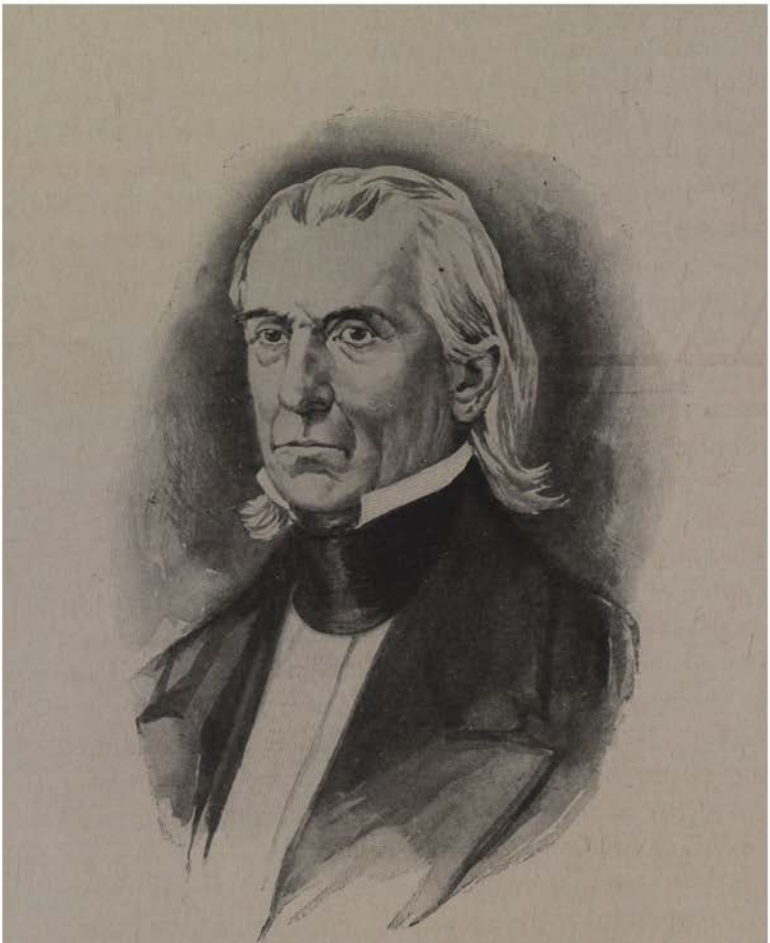
England. Russia had seemed the rival claimant most to be feared in the Oregon country in 1823, when Mr. Monroe, looking towards that quarter as well as towards the south, uttered his significant warning to the European powers against any aggression, whether in search of territory or of sovereignty, in the Americas; but Russia had agreed with England and the United States, in 1824 and 1825, to make no claim south of 54° 40′ north latitude; and England and the United States, waiving for the time their own rival pretensions, had maintained since that settlement an informal joint occupation of the country. Latitude 42° had been fixed by the treaty of 1819 between the United States and Spain, as the northern limit of the Spanish possessions upon the Pacific. From the Lake of Woods to the doubtful Oregon country the northern boundary of the United States followed the forty-ninth parallel of north latitude.

All things might have stood as they were had that distant coast remained unused, unpeopled. But settlers and fur traders were moving there, as everwhere upon the tempting continent. English trading companies attempted to exercise exclusive rights there, the whole region through; set up their trading posts north and south upon the rivers; and kept American traders out. But not American settlers. Squatters came in, indifferent what title they held if only they had that of actual possession. Organized bands of settlers followed upon the heels of isolated squatters and single families, and little settlements began to be clustered here and there upon the rivers. The government at Washington refused to give them any grants for their lands, remembering its covenant of joint occupation with England; but the English could not exclude or oust them;

and men and families who came to stay and make homes for themselves began presently to seem much more like actual owners of the disputed country than mere traders could or the agents of fur companies. Doubtful boundaries at the Pacific were fast becoming a distinct menace to peace. There were men in Congress, too, like Mr. Benton, who sought upon every opportunity to take the aggressive and force the government to a final settlement with Great Britain.

Disputes with England seemed to dog the steps of almost every Administration. It was but three years since Mr. Webster and Lord Ashburton[1] had settled the difficult matter of the northern boundary of Maine by running a compromise line between Canadian and American territory upon the Atlantic. The air of politics, moreover, had never been quite still enough in America for dispassionate settlements by treaty. A veritable storm of outspoken opinion beat about every matter of controversy with foreign countries, if once it happened to catch the ear of the heady democracy which presidents and cabinets had it as their difficult task to lead. And that democracy was more confident, more wilful, more headstrong now, since General Jackson had shown it its way to supremacy, than it had ever been before. Presidents were no longer likely to attempt to withstand it as General Washington had withstood it in the day of its outcry against Mr. Jay's treaty with England. Mr. Polk was a man of his party; the question of the occupation of Oregon had taken hold of the imagination and the passion of the country; the convention which had nominated him had demanded that nothing less than the whole of the disputed region be required of England, up to the very line of the Rus-

[1] See page 257.



James K. Polk

JAMES K. POLK

sian claim; the cry of the campaign had been "Fifty-four forty or fight." England, on her part, pushed her claim southward to the Columbia River, where her fur traders had set a station up. Only the cooling processes of actual negotiation cleared the matter and brought safer counsels in. Mr. Buchanan, the new Secretary of State, was not of the fibre to insist in the face of emphatic refusal of what he demanded; the English government looked with evident uneasiness upon the state of opinion in the United States; a comparison of views brought concessions on each side; and in 1846 the Senate consented to a treaty which continued the line of the forty-ninth degree of north latitude to the Georgian Straits as the definitive northern boundary of the Union.[1]

The Texan boundaries were another matter. Here the government dealt with a rival and neighbor with whom no compromise was necessary. Texas claimed, not only everything north and west of her that had been Spain's or Mexico's all the way to latitude 42°, but also so much of the territory of her one-time partner State, Coahuila, as lay between the Nueces and the Rio Grande del Norte at the south; and Mr. Polk espoused and acted upon her claims at the south even before her formal admission into the Union was complete. He ordered General Zachary Taylor to occupy the western bank of the Nueces with a small force of United States troops, and during the summer of 1845 sent him reinforcements which raised his strength to nearly four thousand men. In December, 1845, Texas became in full form a State of the Union; and early in the following year the President ordered General Taylor to advance to the Rio Grande. His presence there

[1] See page 289.

threatened the Mexican town of Matamoros, just beyond the river, and the Mexican commander at Matamoros demanded his withdrawal to the Nueces. General Taylor refused to withdraw. The Mexicans crossed the river, and on April 23d ambushed a small body of American dragoons. Two weeks later they attacked General Taylor in force and he repulsed them (Palo Alto, May 8, 1846). The next day Taylor in his turn attacked, and drove the Mexicans back across the river in disastrous rout. On the 18th General Taylor himself passed the Rio Grande and occupied Matamoros.

"Mexico," the President told Congress on the 11th of May,[1] while yet he had had no news except that of the ambush of the 23d of April, "Mexico has passed the boundaries of the United States . . . and shed American blood upon American soil. War exists, and exists by the act of Mexico herself." He had not consulted Congress before he ordered General Taylor forward to the Rio Grande and brought this momentous matter to a head, though it had been in session when the order was issued. He had taken full responsibility for that upon himself. War indeed existed,—but by whose act Congress was no longer at liberty to inquire. There was nothing for it but to vote supplies and an army; and a formal declaration of war was resolved upon May 13, 1846, before news of the real fighting on the Rio Grande had reached the capital.

Until autumn all things stood as they were between the belligerents while an army was made ready; but late in August General Taylor moved again, and within a month, by severe and dogged fighting (September 21–23), took the strongly fortified town of Monterey, a full hundred and seventy miles to the west of

[1] See page 275.

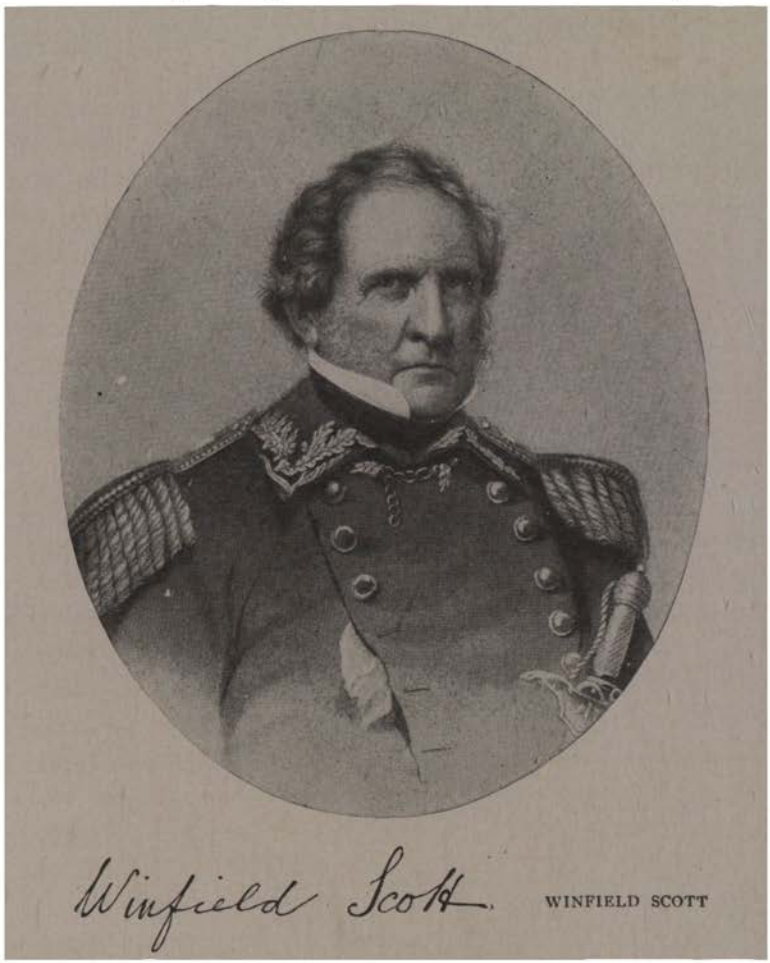
Zachary Taylor

ZACHARY TAYLOR

Matamoros on the highway to the Mexican capital. In November General Winfield Scott, the ranking officer of the federal service, was given chief command, and in January, 1847, General Taylor's force was reduced to a scant five thousand to recruit the immediate command of his superior, sent by sea to attack Vera Cruz. On the 22d and 23d of February Santa Anna attacked him, with four times his numbers, where he lay at defence on the broken plain of Buena Vista, thinking to crush him while he was weak; and was repulsed. The Americans were no longer raw militia, men and officers alike, as they had been in the extemporized armies of 1812. Though they were for the more part volunteers, their officers were professionals, and they were drilled and handled with a skill and thoroughness that made veterans of them with a single battle.

Their steadiness and prowess were put to full test with General Scott in the south. There they had not only to take Vera Cruz by set siege (March 9–29, 1847) in order to make good their landing, but had also to scale the huge escarpments of the vast table-land upon which the Mexican capital lay, two hundred miles away, more than seven thousand feet above the sea, and to make their way across the broken, hilly plains beyond, fighting everywhere as they went against an enemy who outnumbered them and was secure against surprise within safe inner lines of communication. And yet from the carrying of the pass at Cerro Gordo (April 18, 1847) to the storming of the high fortress of Chapultepec (September 13th) there was no pause or miscarriage in the steady process of their victories. The city of Mexico lay amidst guarding fortresses and was set about by morasses crossed only by narrow causeways.

But the Americans moved everywhere with the business-like certainty and precision of men well handled, and



WINFIELD SCOTT

their volunteer ranks seemed less in need of officers than other armies did. Individual pluck and dash and resourceful daring showed, irresistible, in all that they did. They fought men as brave as themselves, a

subtile, spirited race, tenacious to the last of all that it could hold; they fought, also, against odds and moved everywhere against fortified places; but they won undaunted at every onset. By the 15th of September they were in complete and formal possession of the enemy's capital and Mexico was in their hands, within but a little more than six months of their landing.

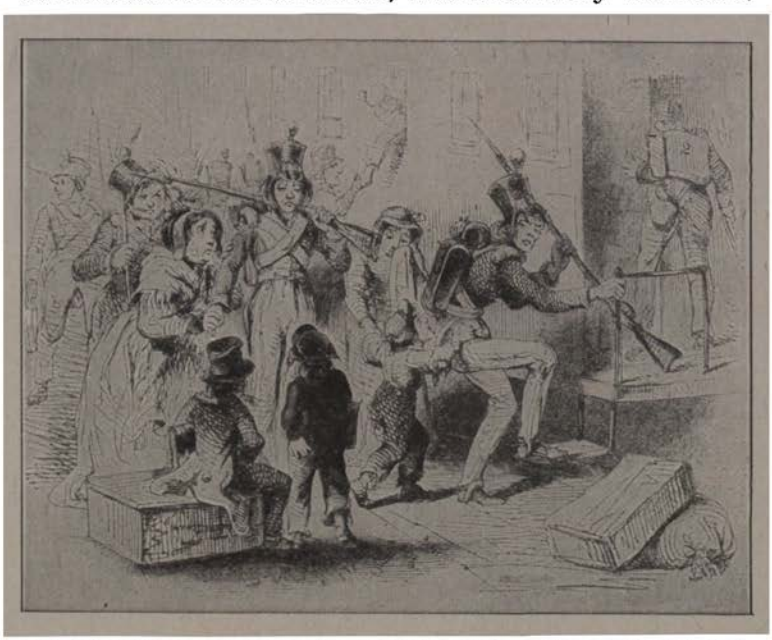
Meanwhile the government at Washington had broadened the scope and meaning of the war beyond all expectation. During the summer of 1846 and the winter of 1846–1847 it had seized, not merely the disputed territory which Texas claimed, but also the whole country of the Pacific slope beyond, from Oregon to the Gila River, to which the United States could have no conceivable right except that of conquest. The thing was easily accomplished. A fleet under Commodores Sloat and Stockton and a few troops acting here and there under Colonel Kearney and Captain Frémont moved almost as they pleased; and a territory of six hundred thousand square miles was added to the United States.

The war, with all its inexcusable aggression and fine fighting, was brought to its formal close by a treaty, signed at Guadeloupe Hidalgo on the 2d of February, 1848, by which Mexico recognized the Rio Grande as the southwestern boundary line of Texas and ceded New Mexico and California, of which the United States had taken possession by force of arms.[1] For this territory, seized and ceded, the United States agreed to pay Mexico fifteen million dollars.

It had been evident from the first what the outcome of the war must be. When, in August, 1846, Congress

[1] See page 310.

had had under consideration an additional money vote of two millions, "for the settlement of the boundary question with Mexico," there had been no doubt in the mind of any candid or well informed man that the money was really to be spent for the acquisition of territory as opportunity offered. Members of Congress very well knew what question that opened again. Mr. David Wilmot,[1] a Democratic member of the House from Pennsylvania, therefore, promptly offered as an amendment to the vote the *proviso* that neither slavery nor involuntary servitude should be permitted in any territory that might be acquired from Mexico. The amendment passed the House with the money vote, but miscarried in the Senate, with the money vote itself,



THE DEPARTURE OF THE PHILADELPHIA VOLUNTEERS FROM PHILADELPHIA.

From a humorous drawing by F. O. C. Darley.

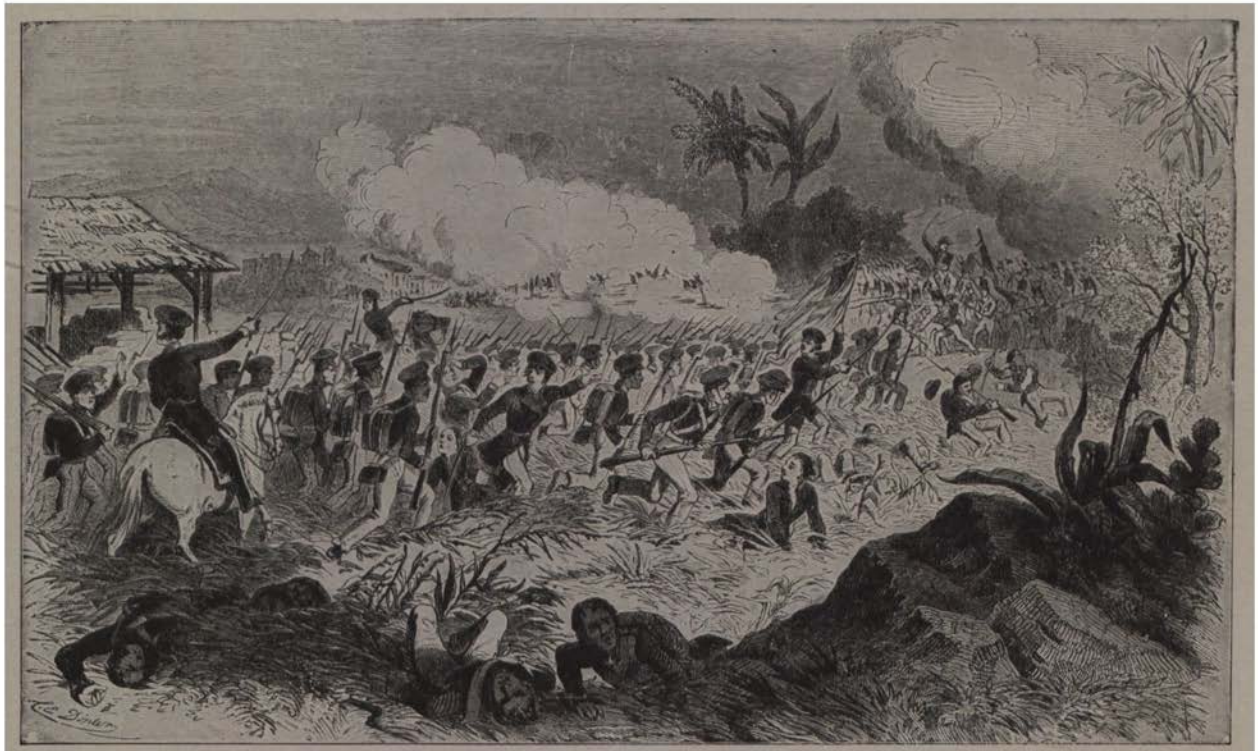
[1] See page 307.

because it provoked debate and there was not time enough at the fag-end of a session to push it past debate to its passage. It was necessary that the matter of the proviso should be settled. The Missouri compromise line ran only to the western boundary of the Louisiana purchase; the war brought accessions of territory as extensive, almost, as Louisiana itself; the question of the extension of slavery once more awaited debate and settlement. Here were vast provinces greater than the entire area of the original Union. Was slavery to be carried into them, and were slave States to be erected along the mountains and by the Pacific which should preserve the political balance of North and South in the Senate? The "Wilmot proviso" must be adopted or rejected; its question could not be put out of sight.

While the war lasted and the troublesome questions it bred were yet in abeyance, the Democrats made good the programme of domestic administration they had set themselves. By the elections of 1844 both houses of Congress had become Democratic, and party measures could be carried. In July, 1846, therefore, a new tariff Act was passed which brought protective duties down almost to a strict revenue basis, and considerably enlarged the free list. In August an Act was passed which once more established the Independent Treasury,[1] substantially as Mr. Van Buren had planned it. The expenses of the war were met, so far as the revenues fell short, by large issues of interest-bearing treasury notes. The Democratic leaders were steadfast in their determination neither to use the banks nor to increase the tariff in order to assist the Treasury.

But their power came to an end with the first Congress

[1] See page 297.

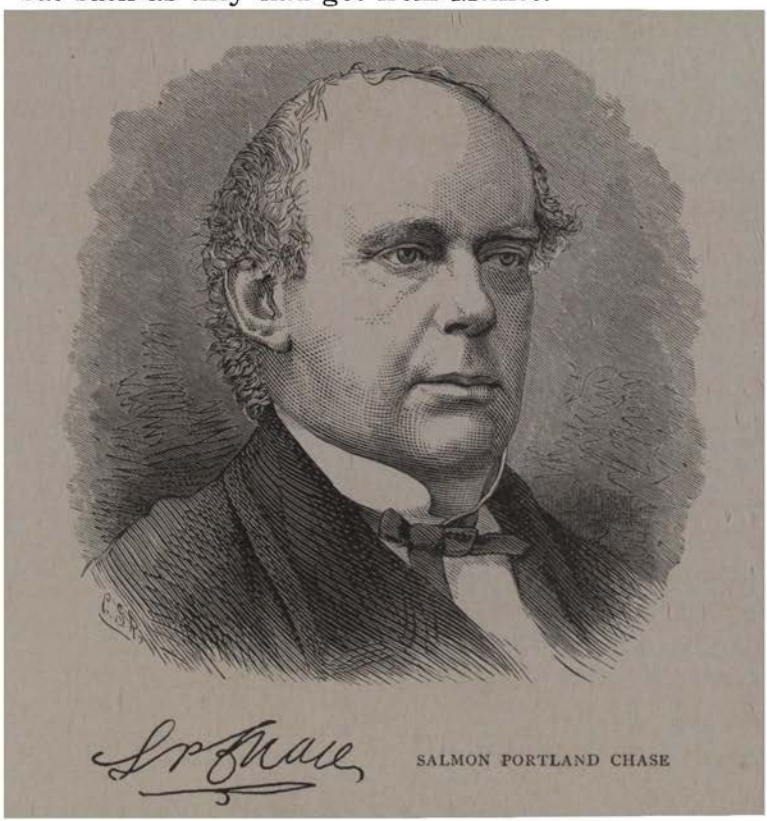


CHARGE OF THE "PALMETTOS" AT CHURUBUSCO

MAIN STREET IN AUSTIN, TEXAS, ABOUT 1845

of Mr. Polk's administration. The congressional elections of the autumn of 1846 transformed the majority in the House from Democratic to Whig again. The Senate, more slow to change, remained Democratic. With the houses no longer agreed, party plans fell into confusion. Congress was once more disturbed by questions which lay deeper than politics and cut both parties athwart with the lines of faction. The question of slavery had returned again to plague it. The Democratic Senate wished to pass an appropriation bill "for the settlement of the boundary question" in which nothing should be said about the extension of slavery; the Whigs of the House insisted upon Mr. Wilmot's proviso. Oregon was drawn into the controversy. The Senate would agree to no bill organizing Oregon as a Territory which excluded slavery; the House would adopt no measure which did not exclude it. The treaty of peace and cession found the houses still unagreed. Not until August, 1848, could they agree even upon the organization of Oregon. Then the Senate yielded and the Territory was organized under a law which

extended to her area the prohibitions of the Ordinance of 1787. But in the matter of California and New Mexico the dead-lock was unbroken. All measures failed, and the new territories were left with no law but such as they had got from Mexico.



SALMON PORTLAND CHASE

Democratic politicians, indeed, put forward a political doctrine in the matter which, if accepted, would make it unnecessary for Congress to act at all upon the chief question at issue. The introduction or non-introduction of slavery into those territories, they said, was not a

thing to be determined beforehand or by federal authority: it must be determined by circumstances and by the free choice of the people who were to make their homes there. It ought to be their privilege to choose their own institutions and economy of life, and Congress ought not to attempt to dictate what their choice should be. They called this a principle of democracy, that every community should determine its own life; but it came too late to their lips to look like anything more than a counsel of timidity and inaction, a makeshift party doctrine of "squatter sovereignty"; and opinion was neither stayed nor satisfied by the compromise it offered.

That year of dead-lock between the houses was the year also of a presidential election; and no one who looked observantly upon the incidents of that year doubted what significant changes were setting in. The airs of opinion blew now out of this quarter and again out of that, but their shifting currents foretold, to those who could read the weather, the setting in of the trades, which should blow continuously and with increasing volume out of one quarter a long season through. Both Whigs and Democrats observed the signs of the times, and fell silent upon the main issue that was in every man's mind, awaiting steadier weather. The Democrats, turning from Mr. Polk, nominated Mr. Lewis Cass, of Michigan, for President, a man conspicuous among them for conservative temper and liberal ways of thought, and spoke in their declaration of principles only of old doctrines, deliberately excluding an avowal of the doctrine of non-interference with the extension of slavery. The Whigs, more cautious still, fell back again upon their tactics of 1840: nominated for President

General Zachary Taylor, no politician but a frank soldier like General Harrison; for Vice President Mr. Millard Fillmore, of New York; and made no declaration of principles at all. But the issue was not obscured. A strong faction of Democrats in New York drew off from their party in open protest against the programme

LEWIS CASS

it did not avow, and in conjunction with men of their own mind out of four other States nominated Mr. Van Buren, who had stood from the first in frank opposition to the extension of slavery. Nor was that all. In August, at Buffalo, still another convention came together, composed of delegates out of eighteen States, to form an independent free soil party, pledged neither to interfere with slavery in the States, whose laws Con-

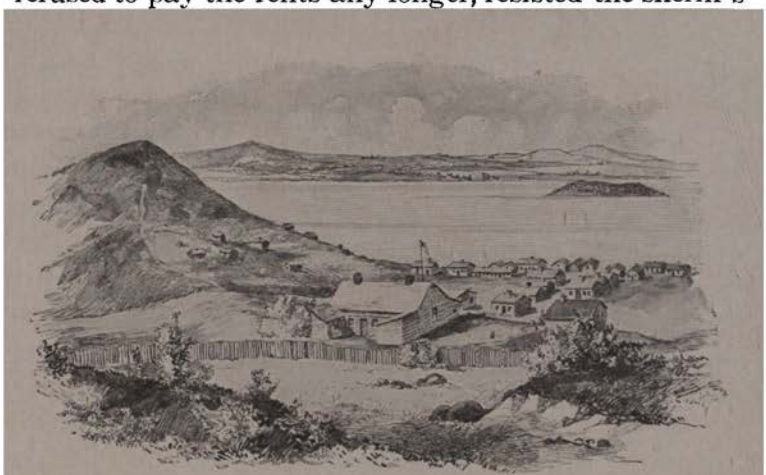
gress had no power to change, nor to permit its introduction into the Territories, whose laws Congress was empowered to make; and it also put Mr. Van Buren in nomination.

The Democratic split in New York cost Mr. Cass the election. The thirty-six votes of the State went to General Taylor; and thirty-six was General Taylor's majority in the electoral college. Mr. Van Buren received nearly three hundred thousand votes. The "Free Soilers" had drawn their strength rather from the Whigs than from the Democrats, it turned out, except in New York, and were to hold the balance of power in the next House, where neither Democrats nor Whigs could command a majority without them. Only the Senate remained Democratic. A "free soil" campaign had cut party lines sharply athwart, and no man could safely forecast what was to come.

THOMAS WILSON DORR

All things seemed touched with change. The country offered but a confused and troubled stage upon which to order parties or make and execute plans of action. The decade through new forces had seemed to gather head, and old forces to be checked and altered (1840–1850). Rhode Island had found herself obliged to

enlarge her suffrage and make liberal changes in her old-fashioned constitution, kept unaltered since old colony days, in order to quiet actual rebellion, under one Thomas Dorr. The legislature of New York had been obliged to secure fee simple titles for the men who farmed the lands on the Hudson still leased, for a rent in kind, from the heirs of the Dutch patroons; because they flatly refused to pay the rents any longer, resisted the sheriff's



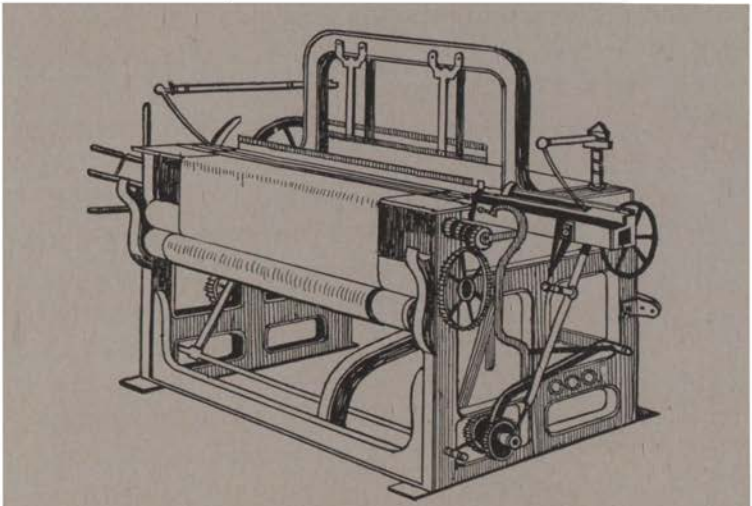
SAN FRANCISCO, CALIFORNIA, IN 1848

process with arms, and would pay for nothing but absolute title. Six thousand miles of railway were built while Mr. Tyler negotiated the annexation of Texas and Mr. Polk thrust Mexico to the wall. The population of the country increased from seventeen to twenty-three millions. Florida, Iowa, and Wisconsin, as well as Texas, were added to the roll of States. The electric telegraph, spreading with the railways, whose administration it so much eased and simplified, quickened also and gave sweep to the movements of trade and of opinion.

A great tide of immigration, moreover, began to pour in, such as the country had never seen before. Until 1842 there had never been so many as a hundred thousand immigrants in a single year; but in 1845 there were one hundred and fourteen thousand, and by 1849 there were two hundred and ninety-seven thousand coming in within a twelvemonth, the tide rising steadily from year to year. These were years of deep distress over sea. 1846 and 1847 were the years of the terrible famine in Ireland; 1848 saw European states shaken once again by revolution. Not only men out of Ireland, looking for a land where there was food, but men also out of the old monarchies of the continent, looking for a land where there was liberty,—men of wholly foreign speech and habit, seeking a free place for a new life, bent upon their own betterment, and thinking little of aught that did not touch their own fortunes,—came crowding endlessly in. They did not go into the South, where labor was not free, for they were laborers. They crowded, rather, into the cities at the north, or pushed on to the virgin West. Their coming, thousands upon thousands, their ceaseless movement into the West, their stir as of an invading host, subtly gave new impulse to the general movement and resettlement of the population, already afoot of its own accord: to the opening of new lands, the diversification of industry, the quick growth of a nation always making and to be made. Until now the country had been developed for the most part only by men out of the old homes of the first settlers and by natural increase of its own people. Now there was added this power of increase and subtle impulse of change from without. And the tide of men from over sea, once set running, did not ebb or recede. States-

men found themselves obliged to accommodate affairs to a day of new forces, which escaped them and dominated all that they did.

Whether it came by immigration or by natural increase, growth of population meant the augmentation, not of sectional, but of national forces. The slave-



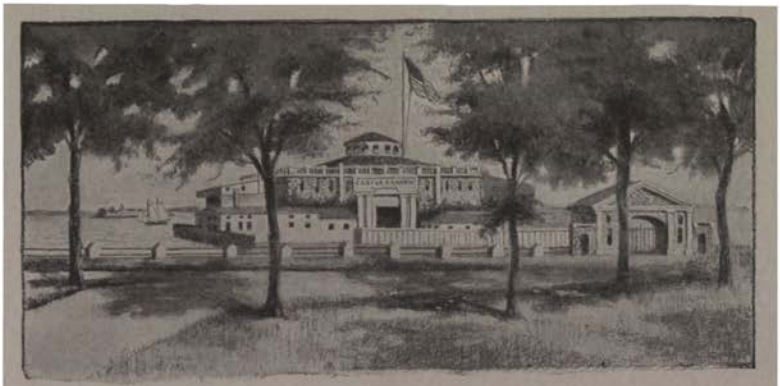
ENGLISH POWER LOOM FOR WEAVING COTTON, 1847

holding States, though their number included Missouri and Arkansas, which shared the growth of the frontier, showed, even with Texas added, an increase of but little more than two millions in the decade, while the rest of the country saw nearly four millions added to its strength. Industry, too, moved with as quick a pace as population, and invention bettered and facilitated its processes at every step. By 1846 a fully practicable sewing machine had been developed and patented. In 1847 the rotary printing press was invented. The power loom was still further varied and perfected. An

age of machinery was pushing forward every process of production, every means of communication, everything that touched either thought or effort.

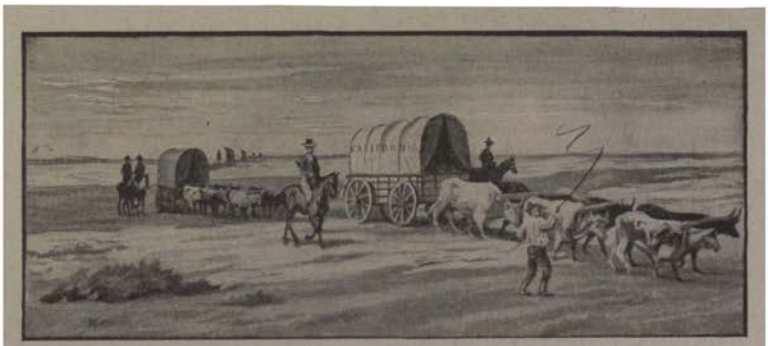
Though the southern politicians talked only of constitutional rights, and seemed to fight only for the extension of slavery, southern merchants held conventions to plan railways to the Pacific and debated measures for linking their trade with the expanding West. Their thoughts ran eagerly and with a certain enthusiasm upon the great future of the nation, in which they wished to take their part. Their plans were made upon the scale of the continent; they spoke in the spirit of the new age, and sought their right rôle in the general development. And yet there was in all that they said and urged an unmistakable note also of apprehension. They wished to take part, and yet began to fear that they could not. They spoke of the nation, and of their duty and their opportunity in it; but the nation of their thought was not a nation which could easily be united in joint efforts of business. It was a nation sectionalized and divided by social and economic contrasts too gross and obvious to be overlooked; a nation whose several regions showed interests diverse and separate, hardly to be reconciled. This they saw, some vaguely, some with painful clearness, and a deep uneasiness grew upon them more and more from year to year. The spirit and the power of the time were turned against them.

And the issues which made their place apart a fact, not of speculation but of certainty, were mightily hastened by every force afoot in the life of the country as it grew. It became evident almost at once that Congress could not avoid or even postpone its choice with



CASTLE GARDEN, NEW YORK, IN 1850

regard to slavery in the new territories seized from Mexico. The very month the treaty of Guadeloupe Hidalgo was signed (February, 1848) rich deposits of gold were discovered in California; and before the politicians at Washington were ready to organize the region as a Territory it had filled with an aggressive population which was making ready to demand its admission into the Union as a State. Before the census of 1850 was taken eighty thousand settlers had made their way thither, eager for treasure. Some had struggled across the interminable plains and over the mighty ridges of the Rockies; some had taken ship and gone the long way round about Cape Horn; some had crossed the isthmus of Central America and made their way in such craft as offered up the Pacific coast. The plains were ere long strewn with the bleaching bones of men and beasts, the coasts with frail craft cast away upon the incautious, eager voyage; but the quest did not cease or slacken. Thousands reached the faraway goal, found the golden fleece, and set themselves to build a



EMIGRANT TRAIN CROSSING THE PLAINS

State. It was evident enough that, with such things happening, Congress could not put action off.

The new President, too, forced the matter most uncomfortably. General Taylor had no sooner become President than he acted upon the situation in the West with a soldier's practical, businesslike candor and directness. He advised the settlers in California and New Mexico to frame state constitutions and apply at once for admission to the Union with institutions of their own choosing; and the Californians acted upon his advice so promptly that by the time Congress met they had erected a complete government, and he had ordered General Riley, the provisional military governor of the territory, to withdraw. When the houses assembled the frank soldier President advised them to admit the new State at once, and to postpone action with regard to New Mexico until it also should have completed its preparations for admission, then in progress.

But the thing was not to be so easily and simply handled. A deep excitement had spread through the

country that eventful year. Again it had come to seem as if the future of the Union hung upon this issue. Very significant things had been said and threatened, which it was not easy to forget or dismiss. So long ago as 1843 John Quincy Adams, who thirty-five years before had left the Federalists because they talked of dissolving the Union, had joined with other Whigs in declaring that the addition of Texas to the South would bring about and justify disunion. Mr. Garrison, the leader of the abolitionists, had proposed in 1845 that Massachusetts should lead in a movement to withdraw from the Union, and had won very hearty applause for the suggestion from an anti-annexation convention. The masses of the people, it is true, did not heed these things; the counsels of sober statesmen were not seriously affected by them. But almost every northern State demanded, through its legislature, the adoption of

A TYPICAL HOTEL IN THE MIDDLE MINES, CALIFORNIA, ABOUT 1850

the Wilmot proviso, and every southern State protested against it, in tones not to be mistaken. The southern men, to whose demands Mr. Calhoun gave the touch of final definiteness which only words of precision such as he used could give, now denied outright the power of the federal government to exclude slaves, the legitimate property of southern settlers, from the Territories of the United States, and asserted the right of the people of the Territories "to act as they pleased upon the subject of the status of the negro race amongst them, as upon other subjects of internal policy, when they came to form their constitutions." The air was full of disquieting rumors as to what the southerners meant to do should Congress set that principle aside: how they meant to shut their ports against the North and turn all their arts and all their power towards building up an alliance, at once political and economic, with the West: how in the last resort they meant to secede from the Union altogether.

It was not an air in which action was easy to be determined upon. Even compromise seemed for a long time impossible. Mr. Clay, with the dignity of old age upon him, once more came forward as mediator, with counsels of accommodation for which he plead, not in his old tones of commanding leadership, but in new tones almost of supplication which it was very moving to hear. Mr. Webster ceased to speak of the constitution as an instrument of authority; spoke of it, rather, as a thing to be maintained by seeking ways of peace and compromise. But not until many anxious months had gone by, full of bitter, estranging debate, within the houses and without, could terms of agreement be hit upon. It was agreed at last, in the closing

SLUICE WASHING FOR GOLD IN THE MIDDLE MINES, CALIFORNIA, ABOUT 1850

months of 1850,[1] that California should be admitted to the Union as a free State, with the constitution she had herself formed; that the rest of the Mexican cession should be left open to slavery, should events and the movement of population out of the South establish it there; that the slave trade should be abolished in the District of Columbia; and that a stringent fugitive slave law should provide the southerners with effective legal means of recovering runaway slaves.[2] Such was the bundle of measures that had to be got together to quiet all parties.

Meanwhile Mr. Calhoun was dead (March 31, 1850), while compromise yet hung doubtful,—and the President himself (July 9, 1850), of a sudden fever; and Mr. Fillmore was President, a man more amenable to the control of the leaders of Congress and of his party than the sturdy soldier had been whom he succeeded. The face of affairs had changed again with the settlement of the principles of compromise.

It meant more than the mere passing away of a notable figure that Mr. Calhoun was dead at such a juncture,—a tall, spare old man, the lines of whose striking face and haunting, deep-set eyes marked him as the very embodiment of a single stern and watchful purpose, an ascetic knight challenger set down in lonely guard to keep an ancient shrine of doctrine. Eight years before he had told his friends upon what single principle he had acted since 1825, and must ever act so long as he remained upon the field of action. He had opposed Mr. Adams and Mr. Clay, had first supported General Jackson and then turned from him, had acted with the Whigs against Mr. Van Buren and with Mr. Tyler against the Whigs always with this one hope and pur-

[1] See page 325.

[2] See page 329.

pose, "to restore the old state rights Republican doctrines of '98; under the solemn belief that on their restoration the existence of our free popular institutions depended." He came of the hard-willed, indomitable stuff of the north of Ireland, and showed in all his strenu-

OLD SPANISH FORT AT MONTEREY, CALIFORNIA, IN 1848

ous course "the definite mind, the inflexible purpose, the reserved, self-restrained, somewhat ungenial temper of the Ulsterman." When he went off the stage politics seemed bereft of some force as of private and personal conviction, and left to the guidance of men who looked for their opportunity, not for their day of justification.

Our leading *general authorities* are still George Tucker, volume IV., Bryant and Gay, volume IV., James Schouler, volumes IV.

and V., and H. von Holst, volumes II.–VI. Here we begin to have as guide Mr. James Ford Rhodes's *History of the United States from the Compromise of 1850*, volumes I. and II. We turn also, as before, to Carl Schurz's *Henry Clay* and Theodore Roosevelt's *Thomas H. Benton* in the *American Statesmen Series;* Calvin Colton's *Life and Speeches of Henry Clay;* George Ticknor Curtis's *Life of Daniel Webster* and *Life of James Buchanan;* Alexander Johnston's *History of American Politics;* Edward Stanwood's *History of the Presidency;* and A. W. Young's *American Statesman.*

The list of *special authorities* on particular topics or individual aspects of the history of the time is very long. The following may represent the whole. J. N. Larned's *History for Ready Reference,* which, under the title *United States* and under various special titles connected with the history of the country, contains copious and admirably selected extracts from the best writers; Lalor's *Cyclopaedia of Political Science, Political Economy, and United States History;* J. McK. Ormsby's *History of the Whig Party;* Henry A. Wise's *Seven Decades of the Union;* Alexander H. Stephens's *Constitutional View of the War between the States;* R. S. Ripley's *War With Mexico;* William Jay's *The Mexican War;* A. M. Williams's *Sam Houston and the War of Independence in Texas;* C. E. Lester's *Houston and His Republic;* R. D. Hunt's *Genesis of California's First Constitution* in the thirteenth volume of the *Johns Hopkins University Studies in Historical and Political Science;* D. King's *Thomas W. Dorr,* a Life of the leader of the rebellion in Rhode Island; E. R. Potter's *Considerations on Questions on Rhode Island;* E. P. Cheyney's *Anti-Rent Agitation in New York;* James Russell Soley's *Wars of the United States,* James B. Angell's *Diplomacy of the United States,* and Winsor and Channing's *Territorial Acquisitions and Divisions* in the seventh volume of Winsor's *Narrative and Critical History of America;* Albert Gallatin's *Right of the United States of America to the North Eastern Boundary;* William Barrows's *Oregon* in the *American Commonwealth Series.*

Among the most useful *biographies* are Lyon G. Tyler's *Letters and Times of the Tylers;* Josiah Quincy's *Life of John Quincy Adams;* W. W. Story's *Life of Joseph Story;* E. M. Shepard's *Martin Van Buren* in the *American Statesmen Series;* F. W. Seward's *Seward at Washington* (1846–1861); E. L. Pierce's *Life of Charles Sumner;* Pleasant Stovall's *Life of Robert Toombs;* William P. Trent's *Life of W. G. Simms;* A. C. McLaughlin's *Lewis Cass* in the *American Statesmen Series;* Nicolay and Hay's *Life*

of Lincoln; and Albert B. Hart's *Salmon P. Chase* in the *American Statesmen Series.*

Among the innumerable *writings on slavery* and the slavery question which now begin to be useful the following may be mentioned: Horace Greeley's *American Conflict* and *History of the Struggle for Slavery Extension;* W. Goodell's *Slavery and Anti-Slavery;* the first volume of J. W. Draper's *History of the Civil War;* E. A. Pollard's *Lost Cause;* Henry Wilson's *History of the Rise and Fall of the Slave Power;* Hodgson's *Cradle of the Confederacy;* George Lunt's *Origin of the Late War;* Marion G. McDougall's *Fugitive Slaves;* W. P. and F. J. Garrison's *Life of William Lloyd Garrison;* W. H. Siebert's *Underground Railroad;* Thomas R. R. Cobb's *Inquiry into the Law of Negro Slavery* and *Historical Sketch of Slavery;* J. C. Hurd's *Law of Freedom and Bondage;* Charles Francis Adams's *Life of Richard Henry Dana;* William Jay's *Miscellaneous Writings on Slavery;* Leveret W. Spring's *Kansas* in the *American Commonwealth Series;* Eli Thayer's *Kansas Crusade.*

Shosuke Sato's *Land Question,* in the fourth volume of the *Johns Hopkins University Studies in Historical and Political Science* treats of the system of public lands which underlay the westward expansion; Mr. F. W. Taussig's *Tariff History* sketches the political and economic aspects of tariff legislation; and Mr. David Kinley's *Independent Treasury System* narrates the various vicissitudes through which Mr. Van Buren's favorite plans passed before their final acceptance by Congress.

The chief *sources* are the *Register of Debates;* the *Congressional Documents;* the *Congressional Globe;* Thomas H. Benton's *Abridgment of the Debates of Congress; Niles's Register,* besides which the *National Era* (Washington), the *New York Times,* the *New York Tribune,* the New York *Evening Post* become available for contemporary matter; Thomas H. Benton's *Thirty Years' View;* Nathan Sargent's *Public Men and Events;* John Quincy Adams's *Memoirs;* Martin Van Buren's *Inquiry into the Origin and Growth of Political Parties in the United States;* Chevalier de Bacourt's *Souvenirs of a Diplomat;* Mrs. Chapman Coleman's *Life of John J. Crittenden;* Alexander Johnston's *Representative American Orations;* Hugh McCulloch's *Men and Measures of Half a Century;* George W. Curtis's *Correspondence of John Lothrop Motley;* Amos Kendall's *Autobiography;* Thurlow Weed's *Autobiography;* Herndon's *Life of Lincoln;* F. W. Seward's *Seward: An Autobiography;* Frederick Law Olmsted's *Cotton Kingdom;* Ben: Perley Poore's *Perley's Reminiscences;* W. Kennedy's *Rise and Prospects*

of Texas; W. C. Crane's *Life and Select Literary Remains of Sam Houston;* Hinton R. Helper's *The Impending Crisis;* Susan D. Smedes's *Memorials of a Southern Planter;* Frances Anne Kemble's *Journal of a Residence on a Georgia Plantation;* the *Personal Memoirs of Ulysses S.Grant;* the case of *Luther vs. Borden,* touching the relation between the federal and state authorities in the matter of the rebellion in Rhode Island, reported in the seventh volume of Howard's Supreme Court Reports, p. 1; the cases of *Prigg vs. Pennsylvania,* 16 Peters's Reports, 539, and *Ableman vs. Booth,* 21 Howard, 506, touching upon the law with regard to fugitive slaves; and the *Kansas Historical Collections.*

PART II

ORIGINAL DOCUMENTS

1829–1850

ORIGINAL DOCUMENTS

Foot's Resolution to Limit Sales of Western Lands, 1829

Samuel A. Foot, United States Senator from Connecticut, on December 29, 1829, introduced a resolution in the Senate which seemed at the time to be a simple, harmless measure, but it led to a five months' debate. This was chiefly upon the Federal Union, with very little reference to the subject of the resolution. In the course of this debate Senator Hayne of South Carolina, in replying to Senator Webster of Massachusetts, announced the nullification doctrine. Text in "Congressional Debates," First Session, Twenty-first Congress, Vol. VI., Part 1, pp. 58–93. (See page 23.[1])

Resolved, that the committee on public lands be instructed to inquire and report the quantity of the public lands remaining unsold within each State and Territory, and whether it be expedient to limit, for a certain period, the sales of the public lands to such lands only as have heretofore been offered for sale, and are now subject to entry at the minimum price. And, also, whether the

[1] The final page references in the introductions are to allusions in the History which are explained and illustrated in these documents.

office of surveyor-general, and some of the land offices, may not be abolished without detriment to the public interest; or whether it be expedient to adopt measures to hasten the sales, and extend more rapidly the surveys of the public lands.

The Memorable Debate on Foot's Resolution, 1830

The discussion on Senator Foot's resolution, to limit the sales of public lands, was made historic by the great debate between Senators Hayne of South Carolina and Webster of Massachusetts. The resolution was under consideration from January 13 until May 31, 1830, and was then laid on the table. The speeches in the great debate were very long. Only extracts from them are given here. Various parts of the speeches have been reprinted many times. The full text is found in "Congressional Debates," First Session, Twenty-first Congress, Vol. VI., Part 1, pp. 58–93 and "Niles's Register," XXXVII., XXXVIII. (See page 23.)

The Following Is from Webster's Reply to Hayne, January 26–27

There yet remains to be performed by far the most grave and important duty, which I feel to be devolved on me, by this occasion. It is to state, and to defend, what I conceive to be the true principles of the constitution under which we are here assembled. . . .

I understand the honorable gentleman from South Carolina to maintain, that it is a right of the State Legislatures to interfere, whenever, in their judgment, this Government transcends its constitutional limits, and to arrest the operation of its laws.

I understand him to maintain this right, as a right existing under the constitution; not as a right to overthrow it, on the ground of extreme necessity, such as would justify violent revolution.

I understand him to maintain an authority, on the part of the States, thus to interfere, for the purpose of correcting the exercise of power by the General Government, of checking it, and of compelling it to conform to their opinion of the extent of its powers.

I understand him to maintain that the ultimate power of judging of the constitutional extent of its own authority is not lodged exclusively in the General Government, or any branch of it; but that, on the contrary, the States may lawfully decide for themselves, and each State for itself, whether, in a given case, the act of the General Government transcends its power.

I understand him to insist that, if the exigency of the case, in the opinion of any State Government, require it, such State Government may, by its own sovereign authority, annul an act of the General Government, which it deems plainly and palpably unconstitutional.

This is the sum of what I understand from him to be the South Carolina doctrine; and the doctrine which he maintains. I propose to consider it, and compare it with the constitution. . . .

What he contends for, is, that it is constitutional to interrupt the administration of the constitution itself, in the hands of those who are chosen and sworn to administer it, by the direct interference, in form of law, of the States, in virtue of their sovereign capacity. The inherent right in the people to reform their government, I do not deny; and they have another right, and that is, to resist unconstitutional laws, without overturning the Government. It is no doctrine of mine, that unconstitutional laws bind the people. The great question is, whose prerogative is it to decide on the constitutionality or unconstitutionality of the laws? On that, the

main debate hinges. The proposition, that, in case of a supposed violation of the constitution by Congress, the States have a constitutional right to interfere, and annul the law of Congress, is the proposition of the gentleman: I do not admit it. If the gentleman had intended no more than to assert the right of revolution, for justifiable cause, he would have said only what all agree to. But I cannot conceive that there can be a middle course, between submission to the laws, when regularly pronounced constitutional, on the one hand, and open resistance, which is revolution or rebellion, on the other. I say, the right of a State to annul a law of Congress, cannot be maintained but on the ground of the unalienable right of man to resist oppression; that is to say, upon the ground of revolution. I admit that there is an ultimate violent remedy, above the constitution, and in defiance of the constitution, which may be resorted to, when a revolution is to be justified. But I do not admit that, under the constitution, and in conformity with it, there is any mode in which a State Government, as a member of the Union, can interfere and stop the progress of the General Government, by force of her own law, under any circumstances whatever.

This leads us to inquire into the origin of this Government, and the source of its power. Whose agent is it? Is it the creature of the State Legislatures, or the creature of the people? If the Government of the United States be the agent of the State Governments, then they may control it, provided they can agree in the manner of controlling it; if it be the agent of the people, then the people alone can control it, restrain it, modify, or reform it. It is observable enough, that the doctrine for which the honorable gentleman contends leads him to the necessity of maintaining, not only that this General Government is the creature of the States, but that it is the creature of each of the States, severally; so that

each may assert the power, for itself, of determining whether it acts within the limits of its authority. It is the servant of four and twenty masters, of different wills and different purposes, and yet bound to obey all. This absurdity (for it seems no less) arises from a misconception as to the origin of this Government and its true character. It is, sir, the people's constitution, the people's Government; made for the people; made by the people; and answerable to the people. The people of the United States have declared that this constitution shall be the supreme law. We must either admit the proposition, or dispute their authority. The States are, unquestionably, sovereign, so far as their sovereignty is not affected by this supreme law. But the State Legislatures, as political bodies, however sovereign, are yet not sovereign over the people. So far as the people have given power to the General Government, so far the grant is unquestionably good, and the Government holds of the people, and not of the State Governments. We are all agents of the same supreme power, the people. The General Government and the State Governments derive their authority from the same source. Neither can, in relation to the other, be called primary, though one is definite and restricted, and the other general and residuary. The National Government possesses those powers which it can be shown the people have conferred on it, and no more. All the rest belongs to the State Governments or to the people themselves. So far as the people have restrained State sovereignty, by the expression of their will, in the constitution of the United States, so far, it must be admitted, State sovereignty is effectually controlled. I do not contend that it is, or ought to be, controlled farther. The sentiment to which I have referred, propounds that State sovereignty is only to be controlled by its own "feeling of justice;" that is to say, it is not to be controlled at all: for one who is to follow his own feelings is under no

WEBSTER REPLYING TO HAYNE IN THE UNITED STATES SENATE, JANUARY 2, 1830

(From the painting by G. P. A. Healy in Faneuil Hall, Boston)

legal control. Now, however men may think this ought to be, the fact is, that the people of the United States have chosen to impose control on State sovereignties. There are those, doubtless, who wish they had been left without restraint; but the constitution has ordered the matter differently. To make war, for instance, is an exercise of sovereignty; but the constitution declares that no State shall make war. To coin money is another exercise of sovereign power; but no State is at liberty to coin money. Again the constitution says that no sovereign State shall be so sovereign as to make a treaty. These prohibitions, it must be confessed, are a control on the State sovereignty of South Carolina, as well as of the other States, which does not arise "from her own feelings of honorable justice." Such an opinion, therefore, is in defiance of the plainest provisions of the constitution. . . .

It so happens that, at the very moment when South Carolina resolves that the tariff laws are unconstitutional, Pennsylvania and Kentucky resolve exactly the reverse. They hold those laws to be both highly proper and strictly constitutional. And now, sir, how does the honorable member propose to deal with this case? How does he relieve us from this difficulty, upon any principle of his? His construction gets us into it; how does he propose to get us out?

In Carolina, the tariff is a palpable, deliberate usurpation; Carolina, therefore, may nullify it, and refuse to pay the duties. In Pennsylvania, it is both clearly constitutional, and highly expedient; and there, the duties are to be paid. And yet we live under a Government of uniform laws, and under a constitution, too, which contains an express provision, as it happens, that all duties shall be equal in all the States! Does not this approach absurdity?

If there be no power to settle such questions, independent of either of the States, is not the whole Union

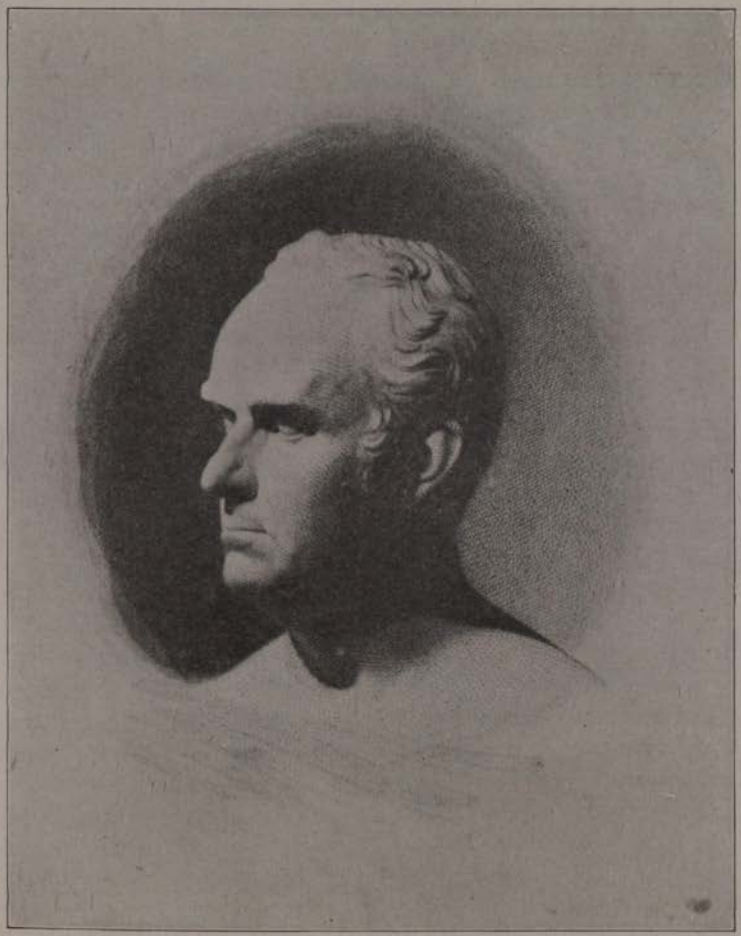
a rope of sand? Are we not thrown back again, precisely upon the old Confederation?

It is too plain to be argued. Four-and-twenty interpreters of constitutional law, each with a power to decide for itself, and none with authority to bind anybody else, and this constitutional law the only bond of their union! What is such a state of things, but a mere connexion during pleasure; or, to use the phraseology of the times, during feeling? And that feeling, too, not the feeling of the people, who established the constitution, but the feeling of the State Governments. . . .

I must now beg to ask, sir, whence is this supposed right of the states derived? Where do they find the power to interfere with the laws of the Union? Sir, the opinion which the honorable gentleman maintains, is a notion founded in a total misapprehension, in my judgment, of the origin of this Government, and of the foundation on which it stands. I hold it to be a popular Government, erected by the people; those who administer it, responsible to the people; and itself capable of being amended and modified, just as the people may choose it should be. It is as popular, just as truly emanating from the people, as the State Governments. It is created for one purpose; the State Governments for another. It has its own powers; they have theirs. There is no more authority with them to arrest the operation of a law of Congress, than with Congress to arrest the operation of their laws. We are here to administer a constitution emanating immediately from the people, and trusted, by them, to our administration. It is not the creature of the State Governments. It is of no moment to the argument, that certain acts of the State Legislatures are necessary to fill our seats in this body. That is not one of their original State powers—a part of the sovereignty of the State. It is a duty which the people, by the constitution itself, have imposed on the State Legislatures; and which they might

have left to be performed elsewhere if they had seen fit. So they have left the choice of President with electors; but all this does not affect the proposition that this whole Government—President, Senate, and House of Representatives—is a popular Government. It leaves it still all its popular character. The Governor of a State, (in some of the States) is chosen, not directly by the people, but by those who are chosen by the people, for the purpose of performing, among other duties, that of electing a Governor. Is the Government of the State, on that account, not a popular Government? This Government, sir, is the independent offspring of the popular will. It is not the creature of State Legislatures. Nay, more, if the whole truth must be told, the people brought it into existence, established it, and have hitherto supported it, for the very purpose, amongst others, of imposing certain salutary restraints on State sovereignties. The States cannot now make war; they cannot contract alliances; they cannot make, each for itself, separate regulations of commerce; they cannot lay imposts; they cannot coin money. If this constitution, sir, be the creature of State Legislatures, it must be admitted that it has obtained a strange control over the volitions of its creators.

The people, then, sir, erected this Government. They gave it a constitution; and in that constitution they have enumerated the powers which they bestow on it. They have made it a limited Government. They have defined its authority. They have restrained it to the exercise of such powers as are granted; and all others, they declare, are reserved to the States or the people. But, sir, they have not stopped here. If they had, they would have accomplished but half their work. No definition can be so clear as to avoid possibility of doubt; no limitation so precise, as to exclude all uncertainty. Who then shall construe this grant of the people? Who shall interpret their will, where it may



DANIEL WEBSTER
(From Powers's bust)

be supposed they have left it doubtful? With whom do they repose this ultimate right of deciding on the powers of the Government? Sir, they have settled all this in the fullest manner. They have left it with the Government itself, in its appropriate branches. Sir, the very chief end, the main design, for which the whole constitution was framed and adopted was, to establish a Government that should not be obliged to act through State agency, or depend on State opinion and State discretion. The people had had quite enough of that kind of government, under the Confederacy. Under that system, the legal action, the application of law to individuals, belonged exclusively to the States. Congress could only recommend; their acts were not of binding force, till the States had adopted and sanctioned them? Are we in that condition still? Are we yet at the mercy of State discretion, and State construction? Sir, if we are, then vain will be our attempt to maintain the constitution under which we sit. But, sir, the people have wisely provided, in the constitution itself, a proper, suitable mode and tribunal for settling questions of constitutional law. There are, in the constitution, grants of powers to Congress, and restrictions on these powers. There are, also, prohibitions on the States. Some authority must, therefore, necessarily exist, having the ultimate jurisdiction to fix and ascertain the interpretation of the segrants, restrictions, and prohibitions. The constitution has, itself, pointed out, ordained, and established, that authority. How has it accomplished this great and essential end? By declaring, sir, that "the constitution and the laws of the United States, made in pursuance thereof, shall be the supreme law of the land, anything in the constitution or laws of any State to the contrary notwithstanding."

This, sir, was the first great step. By this, the supremacy of the constitution and laws of the United States is declared. The people so will it. No State

law is to be valid which comes in conflict with the constitution or any law of the United States passed in pursuance of it. But who shall decide this question of interference? To whom lies the last appeal? This, sir, the constitution itself decides, also, by declaring "that the judicial power shall extend to all cases arising under the constitution and laws of the United States." These two provisions, sir, cover the whole ground. They are, in truth, the key-stone of the arch. With these, it is a constitution; without them, it is a confederacy. In pursuance of these clear and express provisions, Congress established, at its very first session, in the Judicial Act, a mode for carrying them into full effect, and for bringing all questions of constitutional power to the final decision of the Supreme Court. It then, sir, became a Government. It then had the means of self protection; and, but for this, it would, in all probability, have been now among things which are past. Having constituted the Government, and declared its powers, the people have further said, that, since somebody must decide on the extent of these powers, the Government shall itself decide; subject, always, like other popular governments, to its responsibility to the people. And now, sir, I repeat, how is it that a State Legislature acquires any power to interfere? Who or what gives them the right to say to the people, "we, who are your agents and servants for one purpose, will undertake to decide that your other agents and servants, appointed by you for another purpose, have transcended the authority you gave them?" The reply would be, I think, not impertinent: "Who made you a judge over another's servants? To their own masters they stand or fall."

Sir, I deny this power of State Legislatures altogether. It cannot stand the test of examination. Gentlemen may say that, in an extreme case, a State Government might protect the people from intolerable oppression. Sir, in such a case, the people might protect themselves,

without the aid of the State Governments. Such a case warrants revolution. It must make, when it comes, a law for itself. A nullifying act of a State Legislature cannot alter the case, nor make resistance any more lawful. . . .

To avoid all possibility of being misunderstood, allow me to repeat again, in the fullest manner, that I claim no powers for the Government by forced or unfair construction. I admit, that it is a Government of strictly limited powers, of enumerated, specified, and particularized powers; and that whatsoever is not granted, is withheld. But notwithstanding all this, and however the grant of powers may be expressed, its limit and extent may yet, in some cases, admit of doubt; and the General Government would be good for nothing, it would be incapable of long existing, if some mode had not been provided, in which those doubts, as they should arise, might be peaceably, but authoritatively, solved. . . .

Direct collision, therefore, between force and force, is the unavoidable result of that remedy for the revision of unconstitutional laws which the gentleman contends for. It must happen in the very first case to which it is applied. Is not this the plain result? To resist, by force, the execution of a law, generally, is treason. Can the courts of the United States take notice of the indulgence of a State to commit treason? The common saying that a State cannot commit treason herself, is nothing to the purpose. Can she authorize others to do it? If John Fries had produced an act of Pennsylvania, annulling the law of Congress, would it have helped his case? Talk about it as we will, these doctrines go the length of revolution. They are incompatible with any peaceable administration of the Government. They lead directly to disunion and civil commotion; and therefore it is, that, at their commencement, when they are first found to be maintained by

DANIEL WEBSTER'S BIRTHPLACE, SALISBURY (NOW FRANKLIN), NEW HAMPSHIRE

respectable men, and in a tangible form, I enter my public protest against them all. . . .

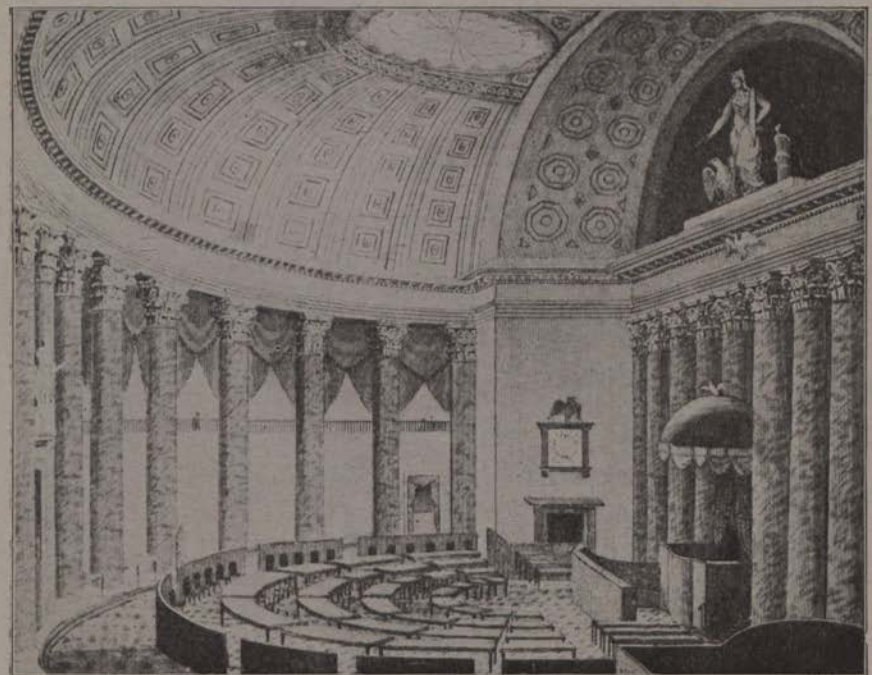
But, sir, what is this danger, and what the grounds of it? Let it be remembered that the constitution of the United States is not unalterable. It is to continue in its present form no longer than the people, who established it, shall choose to continue it. If they shall become convinced that they have made an injudicious or inexpedient partition and distribution of power, between the State Governments and the General Government, they can alter that distribution at will.

If any thing be found in the national constitution, either by original provision, or subsequent interpretation, which ought not to be in it, the people know how to get rid of it. If any construction be established, unacceptable to them, so as to become, practically, a part of the constitution, they will amend it at their own sovereign pleasure. But while the people choose to maintain it as it is; while they are satisfied with it, and refuse to change it, who has given, or who can give, to the State Legislatures, a right to alter it, either by interference, construction, or otherwise? Gentlemen do not seem to recollect that the people have any power to do anything for themselves; they imagine there is no safety for them any longer than they are under the close guardianship of the State Legislatures. Sir, the people have not trusted their safety, in regard to the general constitution, to these hands. They have required other security, and taken other bonds. They have chosen to trust themselves, first, to the plain words of the instrument, and to such construction as the Government itself, in doubtful cases, should put on its own powers, under their oaths of office, and subject to their responsibility to them: just as the people of a State trust their own State Governments with a similar power. Secondly, they have reposed their trust in the efficacy of frequent elections, and in their own power to remove their own

servants and agents, whenever they see cause. Thirdly, they have reposed trust in the Judicial power, which, in order that it might be trust-worthy, they have made as respectable, as disinterested, and as independent as was practicable. Fourthly, they have seen fit to rely, in case of necessity, or high expediency, on their known and admitted power to alter or amend the constitution, peaceably and quietly, whenever experience shall point out defects or imperfections. And, finally, the people of the United States have, at no time, in no way, directly or indirectly, authorized any State Legislature to construe or interpret their high instrument of Government; much less to interfere, by their own power, to arrest its course and operation. . . .

I have thus stated the reasons of my dissent to the doctrines which have been advanced and maintained. I am conscious, sir, of having detained you and the Senate much too long. I was drawn into the debate with no previous deliberation, such as is suited to the discussion of so grave and important a subject. But it is a subject of which my heart is full, and I have not been willing to suppress the utterance of its spontaneous sentiments. I cannot, even now, persuade myself to relinquish it, without expressing, once more, my deep conviction, that, since it respects nothing less than the union of the States, it is of most vital and essential importance to the public happiness. I profess, sir, in my career, hitherto, to have kept steadily in view the prosperity and honor of the whole country, and the preservation of our Federal Union. It is to that Union we owe our safety at home, and our consideration and dignity abroad. It is to that Union that we are chiefly indebted for whatever makes us most proud of our country. That Union we reached only by the discipline of our virtues in the severe school of adversity. It had its origin in the necessities of disordered finance, prostrate commerce, and ruined credit. Under its benign influences, these

great interests immediately awoke, as from the dead, and sprang forth with newness of life. Every year of its duration has teemed with fresh proofs of its utility and its blessings; and, although our territory has stretched out wider and wider, and our population spread farther and farther, they have not outrun its protection or its benefits. It has been to us all a copious fountain of national, social, and personal happiness. I have not allowed myself, sir, to look beyond the Union, to see what might lie hidden in the dark recess behind. I have not coolly weighed the chances of preserving liberty, when the bonds that unite us together shall be broken asunder. I have not accustomed myself to hang over the precipice of disunion, to see whether, with my short sight, I can fathom the depth of the abyss below; nor could I regard him as a safe counsellor, in the affairs of this Government, whose thoughts should be mainly bent on considering, not how the Union should be best preserved, but how tolerable might be the condition of the people when it shall be broken up and destroyed. While the Union lasts, we have high, exciting, gratifying prospects spread out before us, for us and our children. Beyond that, I seek not to penetrate the veil. God grant that, in my day, at least, that curtain may not rise. God grant that, on my vision, never may be opened what lies behind. When my eyes shall be turned to behold, for the last time, the sun in heaven, may I not see him shining on the broken and dishonored fragments of a once glorious Union; on States dissevered, discordant, belligerent; on a land rent with civil feuds, or drenched, it may be, in fraternal blood! Let their last feeble and lingering glance, rather, behold the gorgeous ensign of the republic, now known and honored throughout the earth, still full high advanced, its arms and trophies streaming in their original lustre, not a stripe erased or polluted, nor a single star obscured, bearing for its motto no such miserable interrogatory



INTERIOR OF HOUSE OF REPRESENTATIVES, ABOUT 1830

(From a drawing by W. Goodacre, Jr.)

as, What is all this worth? Nor those other words of delusion and folly, Liberty first, and Union afterwards: but every where, spread all over in characters of living light, blazing on all its ample folds, as they float over the sea and over the land, and in every wind under the whole heavens, that other sentiment, dear to every true American heart—Liberty *and* Union, now and forever, one and inseparable!

Hayne's Reply to Webster, January 27

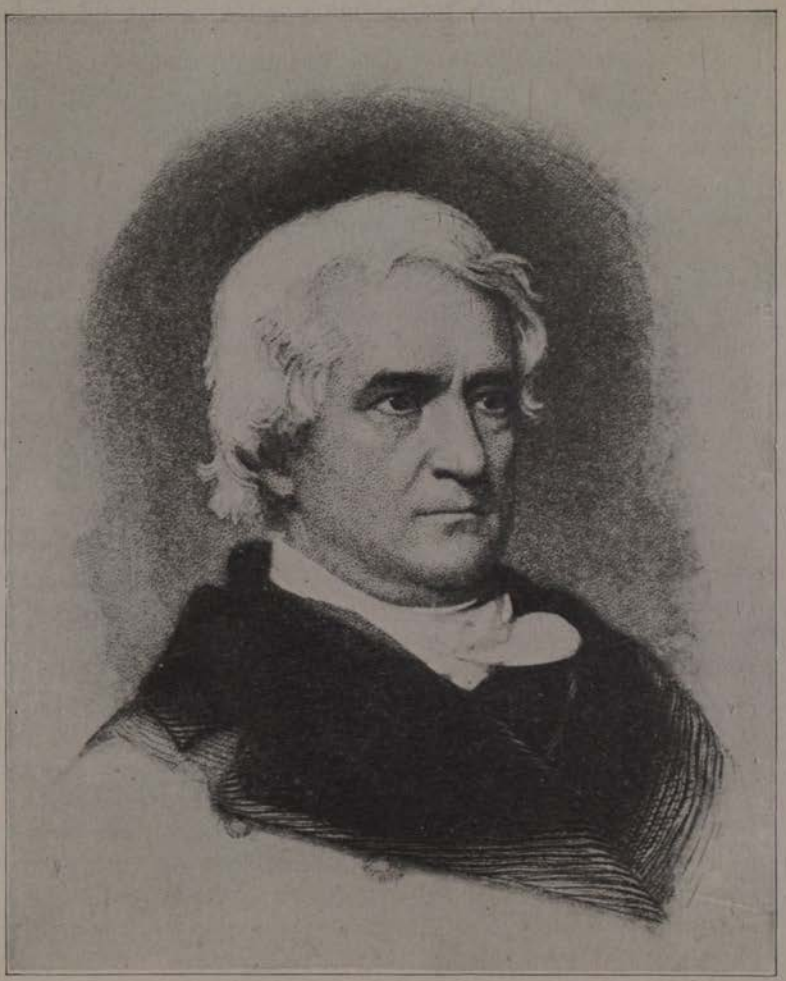
. . . It cannot be doubted, and is not denied, that, before the formation of the constitution, each State was an independent sovereignty, possessing all the rights and powers appertaining to independent nations; nor can it be denied that, after the constitution was formed, they remained equally sovereign and independent, as to all powers not expressly delegated to the Federal Government. This would have been the case, even if no positive provision to that effect had been inserted in that instrument. But to remove all doubt, it is expressly declared, by the tenth article of the amendments of the constitution, that "the powers not delegated to the United States by the constitution, nor prohibited by it to the States, or [are] reserved to the States, respectively, or to the people." The true nature of the Federal constitution, therefore, is, (in the language of Mr. Madison) "a compact to which the states are parties" —a compact by which each State, acting in its sovereign capacity, has entered into an agreement with the other States, by which they have consented that certain designated powers shall be exercised by the United States, in the manner prescribed in the instrument. Nothing can be clearer, than that, under such a system, the Federal Government, exercising strictly delegated powers, can have no right to act beyond the pale of its authority, and that all such acts are void. A State, on

the contrary, retaining all powers not expressly given away, may lawfully act in all cases where she has not voluntarily imposed restrictions on herself. Here, then, is a case of a compact between sovereigns; and the question arises, What is the remedy for a clear violation of its express terms by one of the parties? And here the plain obvious dictate of common sense is in strict conformity with the understanding of mankind, and the practice of nations in all analogous cases; "that, where resort can be had to no common superior, the parties to the compact must, themselves, be the rightful judges whether the bargain has been pursued or violated." (Madison's Report, p. 20.) When it is insisted by the gentleman that one of the parties (the Federal Government) "has the power of deciding ultimately and conclusively upon the extent of its own authority," I ask for the grant of such a power. I call upon the gentleman to show it to me in the constitution. It is not to be found there. If it is to be inferred from the nature of the compact, I aver that not a single argument can be urged in support of such an inference, in favor of the Federal Government, which would not apply, with at least equal force, in favor of a State. All sovereigns are of necessity equal; and any one State, however small in population or territory, has the same rights as the rest, just as the most insignificant nation in Europe is as much sovereign as France, or Russia, or England. . . .

I have already shown that all sovereigns must, as such, be equal. It only remains therefore to inquire whether the States have surrendered their sovereignty, and consented to reduce themselves to mere corporations. The whole form and structure of the Federal Government, the opinions of the framers of the constitution, and the organization of the State Governments, demonstrate that, though the States have surrendered certain specific powers, they have not surrendered their sovereignty. They have each an inde-

pendent Legislature, Executive, and Judiciary, and exercise jurisdiction over the lives and property of their citizens. They have, it is true, voluntarily restrained themselves from doing certain acts, but, in all other respects, they are as omnipotent as any independent nation whatever. Here, however, we are met by the argument, that the constitution was not formed by the States in their sovereign capacity, but by the people; and it is therefore inferred that, the Federal Government being created by all the people, must be supreme; and though it is not contended that the constitution may be rightfully violated, yet it is insisted that from the decision of the Federal Government there can be no appeal. It is obvious that this argument rests on the idea of State inferiority. Considering the Federal Government as one whole, and the States merely as component parts, it follows, of course, that the former is as much superior to the latter as the whole is to the parts of which it is composed. Instead of deriving power by delegation from the States to the Union, this scheme seems to imply that the individual States derive their power from the United States, just as petty corporations may exercise so much power, and no more, as their superior may permit them to enjoy. This notion is entirely at variance with all our conceptions of State rights, as those rights were understood by Mr. Madison and others, at the time the constitution was framed. I deny that the constitution was framed by the people in the sense in which that word is used on the other side, and insist that it was framed by the States acting in their sovereign capacity. When, in the preamble of the constitution, we find the words "we the people of the United States," it is clear they can only relate to the people as citizens of the several States, because the Federal Government was not then in existence.

We accordingly find, in every part of that instrument,



G. M. Dallas.

GEORGE MIFFLIN DALLAS, WHO TOOK PART IN THE HAYNE-WEBSTER DEBATE
(From the engraving by T. B. Welch after a daguerreotype by MM. Clees and Germon)

that the people are always spoken of in that sense. Thus, in the second section of the first article it is declared, that "the House of Representatives shall be composed of members chosen every second year, by the people of the several States." To show that, in entering into this compact, the States acted in their sovereign capacity, and not merely as parts of one great community, what can be more conclusive than the historical fact that, when every State had consented to it except one, she was not held to be bound? . . .

But, the gentleman insists that the tribunal provided by the constitution for the decision of controversies between the States and the Federal Government, is the Supreme Court. And here again I call for the authority on which the gentleman rests the assertion, that the Supreme Court has any jurisdiction whatever over questions of sovereignty between the States and the United States. When we look into the constitution we do not find it there. I put entirely out of view any act of Congress on the subject. We are not looking into laws, but the constitution.

It is clear that questions of sovereignty are not the proper subjects of judicial investigation. They are much too large, and of too delicate a nature, to be brought within the jurisdiction of a court of justice. . . . When it is declared that the constitution, and laws of the United States made in pursuance thereof, shall be the supreme law of the land, it is manifest that no indication is given either as to the power of the Supreme Court to bind the States by its decisions, nor as to the course to be pursued in the event of laws being passed not in pursuance of the constitution. . . .

. . . If the Supreme Court of the United States can take cognizance of such a question, so can the Supreme Courts of the States. But, sir, can it be supposed for a moment, that, when the States proceeded to enter into the compact, called the constitution of the United

States, they could have designed, nay, that they could, under any circumstances, have consented to leave to a court to be created by the Federal Government, the power to decide, finally, on the extent of the powers of the latter, and the limitations on the powers of the former? If it had been designed to do so, it would have been so declared, and assuredly some provision would have been made to secure, as umpires, a tribunal somewhat differently constituted from that whose appropriate duties is the ordinary administration of justice. But to prove, as I think conclusively, that the Judiciary were not designated to act as umpires, it is only necessary to observe that, in a great majority of cases, that court could manifestly not take jurisdiction of the matters in dispute. . . .

No doubt can exist, that, before the States entered into the compact, they possessed the right, to the fullest extent, of determining the limits of their own powers—it is incident to all sovereignty. Now, have they given away that right, or agreed to limit or restrict it in any respect? Assuredly not. They have agreed that certain specific powers shall be exercised by the Federal Government; but the moment that government steps beyond the limits of its charter, the right of the States "to interpose for arresting the progress of the evil, and for maintaining, within their respective limits, the authorities, rights, and liberties, appertaining to them," is as full and complete as it was before the constitution was formed. It was plenary then, and never having been surrendered, must be plenary now. But what then, asks the gentleman? A State is brought into collision with the United States, in relation to the exercise of unconstitutional powers: who is to decide between them? Sir, it is the common case of difference of opinion between sovereigns as to the true construction of a compact. Does such a difference of opinion necessarily produce war? No. And if not, among rival

nations, why should it do so among friendly States? In all such cases, some mode must be devised by mutual agreement, for settling the difficulty; and most happily for us, that mode is clearly indicated in the constitution itself, and results, indeed, from the very form and structure of the Government. The creating power is three-fourths of the States. By their decision, the parties to the compact have agreed to be bound, even to the extent of changing the entire form of the Government itself; and it follows, of necessity, that, in case of a deliberate and settled difference of opinion between the parties to the compact, as to the extent of the powers of either, resort must be had to their common superior—(that power which may give any character to the constitution they may think proper) viz: three-fourths of the States. . . .

But it has been asked, why not compel a State, objecting to the constitutionality of a law, to appeal to her sister States, by a proposition to amend the constitution? I answer, because such a course would, in the first instance, admit the exercise of an unconstitutional authority, which the States are not bound to submit to, even for a day, and because it would be absurd to suppose that any redress could ever be obtained by such an appeal, even if a State were at liberty to make it. . . .

The gentleman has called upon us to carry out our scheme practically. Now, sir, if I am correct in my view of this matter, then it follows, of course, that the right of a State being established, the Federal Government is bound to acquiesce in a solemn decision of a State, acting in its sovereign capacity, at least so far as to make an appeal to the people for an amendment to the constitution. This solemn decision of a State (made either through its Legislature, or a convention, as may be supposed to be the proper organ of its sovereign will—a point I do not propose now to discuss)

binds the Federal Government, under the highest constitutional obligation, not to resort to any means of coercion against the citizens of the dissenting State. How, then, can any collision ensue between the Federal and State Governments, unless, indeed, the former should determine to enforce the law by unconstitutional means? What could the Federal Government do, in such a case? Resort, says the gentleman, to the courts of justice. Now, can any man believe that, in the face of a solemn decision of a State, that an act of Congress is "a gross, palpable, and deliberate violation of the constitution," and the interposition of its sovereign authority to protect its citizens from the usurpation, that juries could be found ready merely to register the decrees of the Congress, wholly regardless of the unconstitutional character of their acts? Will the gentleman contend that juries are to be coerced to find verdicts at the point of the bayonet? . . .

Sir, if Congress should ever attempt to enforce any such laws, they would put themselves so clearly in the wrong, that no one could doubt the right of the State to exert its protecting power. .

Webster's Rejoinder, January 27

A few words, Mr. President, on this constitutional argument, which the honorable gentleman has labored to reconstruct.

His argument consists of two propositions, and an inference. His propositions are—

1. That the Constitution is a compact between the States.

2. That a compact between two, with authority reserved to one to interpret its terms, would be a surrender to that one, of all power whatever.

3. Therefore, (such is his inference) the General

Government does not possess the authority to construe its own powers.

Now, sir, who does not see, without the aid of exposition or detection, the utter confusion of ideas, involved in this, so elaborate and systematic argument?

The constitution, it is said, is a compact between States; the States, then, and the States only, are parties to the compact. How comes the General Government itself a party? Upon the honorable gentleman's hypothesis, the General Government is the result of the compact, the creature of the compact, not one of the parties to it. Yet the argument, as the gentleman has now stated it, makes the Government itself one of its own creators. It makes it a party to that compact to which it owes its own existence.

For the purpose of erecting the constitution on the basis of a compact, the gentleman considers the States as parties to that compact; but as soon as his compact is made, then he chooses to consider the General Government, which is the offspring of that compact, not its offspring, but one of its parties; and so, being a party, has not the power of judging on the terms of compact. Pray, sir, in what school is such reasoning as this taught?

If the whole of the gentleman's main proposition were conceded to him, that is to say—if I admit for the sake of the argument, that the constitution is a compact between States, the inferences which he draws from that proposition are warranted by no just reason. Because if the constitution be a compact between States, still, that constitution, or that compact, has established a Government, with certain powers; and whether it be one of those powers, that it shall construe and interpret for itself the terms of the compact, in doubtful cases, is a question which can only be decided by looking to the compact, and inquiring what provisions it contains on this point. Without any inconsistency with natural reason, the Government, even thus created, might be

trusted with this power of construction. The extent of its powers, therefore, must still be sought for in the instrument itself.

If the old confederation had contained a clause, declaring that resolutions of the Congress should be the supreme law of the land, any State law or constitution to the contrary notwithstanding, and that a committee of Congress, or any other body created by it, should possess judicial powers, extending to all cases arising under resolutions of Congress, then the power of ultimate decision would have been vested in Congress, under the confederation, although that confederation was a compact between States; and for this plain reason, that it would have been competent to the States, who alone were parties to the compact, to agree who should decide in cases of dispute arising on the construction of the compact.

For the same reason, sir, if I were now to concede to the gentleman his principal proposition, viz. that the constitution is a compact between States, the question would still be, what provision is made, in this compact, to settle points of disputed construction, or contested power, that shall come into controversy? And this question would still be answered, and conclusively answered, by the constitution itself. While the gentleman is contending against construction, he himself is setting up the most loose and dangerous construction. The constitution declares that the laws of Congress shall be the supreme law of the land. No construction is necessary here. It declares, also, with equal plainness and precision, that the judicial power of the United States shall extend to every case arising under the laws of Congress. This needs no construction. Here is a law, then, which is declared to be supreme; and here is a power established, which is to interpret that law. Now, sir, how has the gentleman met this? Suppose the constitution to be a compact, yet here are its terms,

and how does the gentleman get rid of them? He cannot argue the seal off the bond, nor the words out of the instrument. Here they are—what answer does he give to them? None in the world, sir, except that the effect of this would be to place the States in a condition of inferiority; and because it results, from the very nature of things, there being no superior, that the parties must be their own judges! Thus closely and cogently does the honorable gentleman reason on the words of the constitution. The gentleman says, if there be such a power of final decision in the General Government, he asks for the grant of that power. Well, sir, I show him the grant—I turn him to the very words—I show him that the laws of Congress are made supreme; and that the judicial power extends, by express words, to the interpretation of these laws. Instead of answering this, he retreats into the general reflection, that it must result, from the nature of things, that the States, being parties, must judge for themselves.

I have admitted, that, if the constitution were to be considered as the creature of the State Governments, it might be modified, interpreted, or construed, according to their pleasure. But, even in that case, it would be necessary that they should agree. One, alone, could not interpret it conclusively; one, alone, could not construe it; one, alone, could not modify it. Yet the gentleman's doctrine is, that Carolina, alone, may construe and interpret that compact which equally binds all, and gives equal rights to all.

So then, sir, even supposing the constitution to be a compact between the States, the gentleman's doctrine, nevertheless, is not maintainable; because, first, the General Government is not a party to that compact, but a Government established by it, and vested by it with the powers of trying and deciding doubtful questions; and, secondly, because, if the constitution be regarded as a compact, not one State only, but all the

States, are parties to that compact, and one can have no right to fix upon it her own peculiar construction.

So much, sir, for the argument, even if the premises of the gentleman were granted, or could be proved. But, sir, the gentleman has failed to maintain his leading proposition. He has not shown, it cannot be shown, that the constitution is a compact between State Governments. The constitution itself, in its very front, refutes that proposition: it declares that it is ordained and established by the people of the United States. So far from saying that it is established by the Governments of the several States, it does not even say that it is established by the people of the several States; but it pronounces that it is established by the people of the United States in the aggregate. The gentleman says, it must mean no more than that the people of the several States, taken collectively, constitute the people of the United States; be it so, but it is in this, their collective capacity; it is as all the people of the United States that they establish the constitution. So they declare; and words cannot be plainer than the words used.

When the gentleman says the constitution is a compact between the States, he uses language exactly applicable to the old confederation. He speaks as if he were in Congress before 1789. He describes fully that old state of things then existing. The confederation was, in strictness, a compact; the States, as States, were parties to it. We had no other General Government. But that was found insufficient, and inadequate to the public exigencies. The people were not satisfied with it, and undertook to establish a better. They undertook to form a General Government, which should stand on a new basis—not a confederacy, not a league, not a compact between States, but a constitution; a popular Government, founded in popular election, directly responsible to the people themselves, and divided

into branches, with prescribed limits of power, and prescribed duties. They ordained such a Government; they gave it the name of a constitution, and therein they established a distribution of powers between this, their General Government, and their several State Governments. When they shall become dissatisfied with this distribution, they can alter it. Their own power over their own instrument remains. But, until they shall alter it, it must stand as their will, and is equally binding on the General Government and on the States.

The gentleman, sir, finds analogy, where I see none. He likens it to the case of a treaty, in which, there being no common superior, each party must interpret for itself under its own obligation of good faith. But this is not a treaty, but a constitution of Government, with powers to execute itself, and fulfil its duties.

I admit, sir, that this Government is a Government of checks and balances; that is, the House of Representatives is a check on the Senate, and the Senate is a check on the House, and the President a check on both. But I cannot comprehend him, or, if I do, I totally differ from him, when he applies the notion of checks and balances to the interference of different Governments. He argues, that if we transgress, each State, as a State, has a right to check us. Does he admit the converse of the proposition, that we have a right to check the States? The gentleman's doctrines would give us a strange jumble of authorities and powers, instead of Governments of separate and defined powers. It is the part of wisdom, I think, to avoid this; and to keep the General Government and the State Governments, each in its proper sphere, avoiding, as carefully as possible, every kind of interference.

Finally, sir, the honorable gentleman says, that the States will only interfere, by their power, to preserve the constitution. They will not destroy it, they will

not impair it—they will only save, they will only preserve, they will only strengthen it! Ah, sir, this is but the old story. All regulated Governments, all free Governments, have been broken up by similar disinterested and well disposed interference. It is the common pretence. But I take leave of the subject.

South Carolina Ordinance of Nullification, 1832

This enactment, as declared in its preamble, was to nullify certain Acts of the Congress of the United States laying duties and imposts on the importation of foreign commodities. Jackson's Proclamation to the People of South Carolina (*q. v.*) should be considered in connection with the Ordinance. From text in "Senate Document" No. 30, Twenty-second Congress, Second Session, pp. 36–39. (See page 36.)

Whereas the Congress of the United States, by various acts, purporting to be acts laying duties and imposts on foreign imports, but in reality intended for the protection of domestic manufactures, and the giving of bounties to classes and individuals engaged in particular employments, at the expense and to the injury and oppression of other classes and individuals, and by wholly exempting from taxation certain foreign commodities, such as are not produced or manufactured in the United States, to afford a pretext for imposing higher and excessive duties on articles similar to those intended to be protected, hath exceeded its just powers under the Constitution, which confers on it no authority to afford such protection, and hath violated the true meaning and intent of the Constitution, which provides for equality in imposing the burthens of taxation upon the several States and portions of the confederacy: And whereas the said Congress, exceeding its just power to impose taxes

STATE HOUSE AT COLUMBIA, SOUTH CAROLINA, WHERE THE ORDINANCE OF NULLIFICATION WAS ADOPTED, NOVEMBER 24, 1832

(Taken from Rives's Tavern, May, 1794. Engraved by James Akin)

and collect revenue for the purpose of effecting and accomplishing the specific objects and purposes which the Constitution of the United States authorizes it to effect and accomplish, hath raised and collected unnecessary revenue for objects unauthorized by the Constitution:

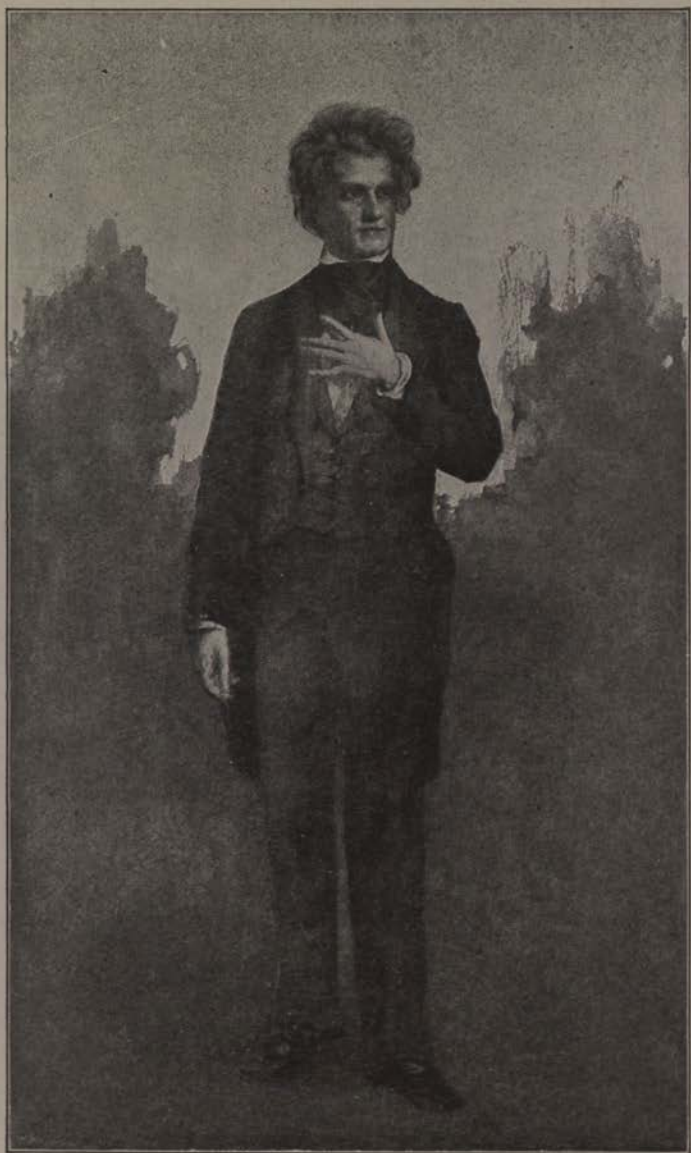
We, therefore, the people of the State of South Carolina in Convention assembled, to declare and ordain, and it is hereby declared and ordained, that the several acts and parts of acts of the Congress of the United States, purporting to be laws for the imposing of duties and imposts on the importation of foreign commodities, and now having actual operation and effect within the United States, and, more especially, an act entitled "An act in alteration of the several acts imposing duties on imports," approved on the nineteenth day of May, one thousand eight hundred and twenty-eight, and also an act entitled "An act to alter and amend the several acts imposing duties on imports," approved on the fourteenth day of July, one thousand eight hundred and thirty-two, are unauthorized by the Constitution of the United States, and violate the true meaning and intent thereof, and are null, void, and no law, nor binding upon this State, its officers or citizens; and all promises, contracts, and obligations, made or entered into, or to be made or entered into, with purpose to secure the duties imposed by the said acts, and all judicial proceedings which shall be hereafter had in affirmance thereof, are and shall be held utterly null and void.

And it is further ordained, that it shall not be lawful for any of the constituted authorities, whether of this State or of the United States, to enforce the payment of duties imposed by the said acts within the limits of this State; but it shall be the duty of the Legislature to adopt such measures and pass such acts as may be necessary to give full effect to this ordinance, and to prevent the enforcement and arrest the operation of the said acts and parts of acts of the Congress of the United

States within the limits of this State, from and after the 1st day of February next, and the duty of all other constituted authorities, and of all persons residing or being within the limits of this State, and they are hereby required and enjoined, to obey and give effect to this ordinance, and such acts and measures of the Legislature as may be passed or adopted in obedience thereto.

And it is further ordained, that in no case of law or equity, decided in the courts of this State, wherein shall be drawn in question the authority of this ordinance, or the validity of such act or acts of the Legislature as may be passed for the purpose of giving effect thereto, or the validity of the aforesaid acts of Congress, imposing duties, shall any appeal be taken or allowed to the Supreme Court of the United States, nor shall any copy of the record be permitted or allowed for that purpose; and if any such appeal shall be attempted to be taken, the courts of this State shall proceed to execute and enforce their judgments, according to the laws and usages of the State, without reference to such attempted appeal, and the person or persons attempting to take such appeal may be dealt with as for a contempt of the court.

And it is further ordained, that all persons bow [now] holding any office of honor, profit, or trust, civil or military, under this State, (members of the Legislature excepted,) shall, within such time, and in such manner as the Legislature shall prescribe, take an oath well and truly to obey, execute, and enforce, this ordinance, and such act or acts of the Legislature as may be passed in pursuance thereof, according to the true intent and meaning of the same; and on the neglect or omission of any such person or persons so to do, his or their office or offices shall be forthwith vacated, and shall be filled up as if such person or persons were dead or had resigned; and no person hereafter elected to any office of honor, profit, or trust, civil or military, (members of the Legislature excepted,) shall, until the Legislature shall other-



JOHN C. CALHOUN, THE GREAT EXPOSITOR OF THE DOCTRINE OF NULLIFICATION

(From a painting in the City Hall, Charleston, South Carolina)

wise provide and direct, enter on the execution of his office, or be in any respect competent to discharge the duties thereof, until he shall, in like manner, have taken a similar oath; and no juror shall be empannelled in any of the courts of this State, in any cause in which shall be in question this ordinance, or any act of the Legislature passed in pursuance thereof, unless he shall first, in addition to the usual oath, have taken an oath that he will well and truly obey, execute, and enforce this ordinance, and such act or acts of the Legislature as may be passed to carry the same into operation and effect, according to the true intent and meaning thereof.

And we, the people of South Carolina, to the end that it may be fully understood by the Government of the United States, and the people of the co-States, that we are determined to maintain this, our ordinance and declaration, at every hazard, do further declare that we will not submit to the application of force, on the part of the Federal Government, to reduce this State to obedience; but that we will consider the passage, by Congress, of any act authorizing the employment of a military or naval force against the State of South Carolina, her constituted authorities or citizens; or any act abolishing or closing the ports of this State, or any of them, or otherwise obstructing the free ingress and egress of vessels to and from the said ports, or any other act on the part of the Federal Government, to coerce the State, shut up her ports, destroy or harass her commerce, or to enforce the acts hereby declared to be null and void, otherwise than through the civil tribunals of the country, as inconsistent with the longer continuance of South Carolina in the Union: and that the people of this State will thenceforth hold themselves absolved from all further obligation to maintain or preserve their political connexion with the people of the other States, and will forthwith proceed to organize a separate Gov-

ernment, and do all other acts and things which sovereign and independent States may of right to do.

Done in Convention at Columbia, the twenty-fourth day of November, in the year of our Lord one thousand eight hundred and thirty-two, and in the fifty-seventh year of the declaration of the independence of the United States of America.

Jackson's Proclamation to the People of South Carolina, 1832

South Carolina adopted the Ordinance of Nullification on November 24, 1832, and both the National and State authorities made military preparations to meet any serious outcome. On December 10th, Jackson issued a lengthy proclamation in which he recited the circumstances under which the Ordinance was issued and the substance of its assertions and then discussed the measure. The following extracts are from text in "Senate Document" No. 30, Twenty-second Congress, Second Session, pp. 78–92. (See page 37.)

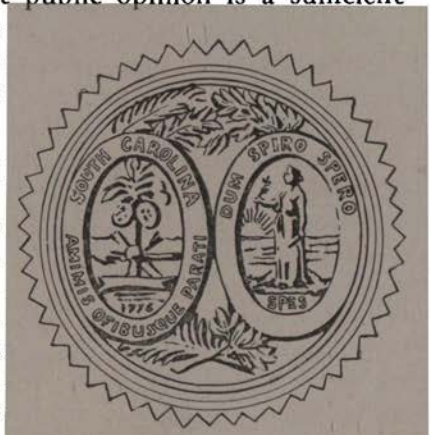
And whereas, the said ordinance prescribes to the people of South Carolina a course of conduct in direct violation of their duty as citizens of the United States, contrary to the laws of their country, subversive of its Constitution, and having for its object the destruction of the Union—that Union, which, coeval with our political existence, led our fathers, without any other ties to unite them than those of patriotism and a common cause, through a sanguinary struggle to a glorious independence—that sacred Union, hitherto inviolate, which, perfected by our happy Constitution, has brought us, by the favor of Heaven, to a state of prosperity at home, and high consideration abroad, rarely, if ever, equalled in the history of nations. To preserve this bond of our political existence from destruction, to maintain inviolate this state of national honor and pros-

perity, and to justify the confidence my fellow citizens have reposed in me, I, ANDREW JACKSON, *President of the United States*, have thought proper to issue this my PROCLAMATION, stating my views of the Constitution and laws applicable to the measures adopted by the Convention of South Carolina, and to the reasons they have put forth to sustain them, declaring the course which duty will require me to pursue, and, appealing to the understanding and patriotism of the people, warn them of the consequences that must inevitably result from an observance of the dictates of the Convention.

Strict duty would require of me nothing more than the exercise of those powers with which I am now, or may hereafter be invested, for preserving the peace of the Union, and for the execution of the laws. But the imposing aspect which opposition has assumed in this case, by clothing itself with State authority, and the deep interest which the people of the United States must all feel in preventing a resort to stronger measures, while there is a hope that any thing will be yielded to reasoning and remonstrance, perhaps demand, and will certainly justify, a full exposition to South Carolina and the nation of the views I entertain of this important question, as well as a distinct enunciation of the course which my sense of duty will require me to pursue.

The ordinance is founded, not on the indefeasible right of resisting acts which are plainly unconstitutional, and too oppressive to be endured; but on the strange position that any one State may not only declare an act of Congress void, but prohibit its execution—that they may do this consistently with the Constitution—that the true construction of that instrument permits a State to retain its place in the Union, and yet be bound by no other of its laws than those it may choose to consider as constitutional. It is true, they add, that

to justify this abrogation of a law, it must be palpably contrary to the Constitution; but it is evident, that, to give the right of resisting laws of that description, coupled with the uncontrolled right to decide what laws deserve that character, is to give the power of resisting all laws. For, as by the theory, there is no appeal, the reasons alleged by the State, good or bad, must prevail. If it should be said that public opinion is a sufficient check against the abuse of this power, it may be asked why it is not deemed a sufficient guard against the passage of an unconstitutional act by Congress? There is, however, a restraint in this last case, which makes the assumed power of a State more indefensible, and which does not exist in the other. There are two appeals from an unconstitutional act passed by Congress—one to the Judiciary, the other to the people and the States. There is no appeal from the State decision in theory, and the practical illustration shows that the courts are closed against an application to review it, both judges and jurors being sworn to decide in its favor. But reasoning on this subject is superfluous, when our social compact, in express terms, declares that the laws of the United States, its Constitution, and treaties made under it, are the supreme law of the land; and, for greater caution, adds "that the judges in every State shall be bound thereby, anything in the Constitution or laws of any State to the contrary notwithstanding." And it may be asserted without fear of



STATE SEAL OF SOUTH CAROLINA

refutation, that no Federative Government could exist without a similar provision. Look for a moment to the consequence. If South Carolina considers the revenue laws unconstitutional, and has a right to prevent their execution in the port of Charleston, there would be a clear constitutional objection to their collection in every other port, and no revenue could be collected any where; for all imposts must be equal. It is no answer to repeat, that an unconstitutional law is no law, so long as the question of its legality is to be decided by the State itself; for every law operating injuriously upon any local interest will be perhaps thought, and certainly represented, as unconstitutional, and, as has been shown, there is no appeal. . . .

If the doctrine of a State veto upon the laws of the Union carries with it internal evidence of its impracticable absurdity, our constitutional history will also afford abundant proof that it would have been repudiated with indignation had it been proposed to form a feature in our Government. . . .

I consider, then, the power to annul a law of the United States, assumed by one State, *incompatible with the existence of the Union, contradicted expressly by the letter of the Constitution, unauthorized by its spirit, inconsistent with every principle on which it was founded, and destructive of the great object for which it was formed.*

After this general view of the leading principle, we must examine the particular application of it which is made in the ordinance.

The preamble rests its justification on these grounds: It assumes, as a fact, that the obnoxious laws, although they purport to be laws for raising revenue, were in reality intended for the protection of manufactures, which purpose it asserts to be unconstitutional; that the operation of these laws is unequal; that the amount raised by them is greater than is required by the wants of the Government; and, finally, that the proceeds are

to be applied to objects unauthorized by the Constitution. These are the only causes alleged to justify an open opposition to the laws of the country, and a threat of seceding from the Union, if any attempt should be made to enforce them. The first virtually acknowledges that the law in question was passed under a power expressly given by the Constitution to lay and collect imposts; but its constitutionality is drawn in question from the *motives* of those who passed it. However apparent this purpose may be in the present case, nothing can be more dangerous than to admit the position that an unconstitutional purpose, entertained by the members who assent to a law enacted under a constitutional power, shall make that law void: for how is that purpose to be ascertained? Who is to make the scrutiny? How often may bad purposes be falsely imputed—in how many cases are they concealed by false professions—in how many is no declaration of motive made? Admit this doctrine, and you give to the States an uncontrolled right to decide, and every law may be annulled under this pretext. If, therefore, the absurd and dangerous doctrine should be admitted, that a State may annul an unconstitutional law, or one that it deems such, it will not apply to the present case.

The next objection is, that the laws in question operate unequally. This objection may be made with truth, to every law that has been or can be passed. The wisdom of man never yet contrived a system of taxation that would operate with perfect equality. If the unequal operation of a law makes it unconstitutional, and if all laws of that description may be abrogated by any State for that cause, then indeed is the Federal Constitution unworthy of the slightest effort for its preservation. . . .

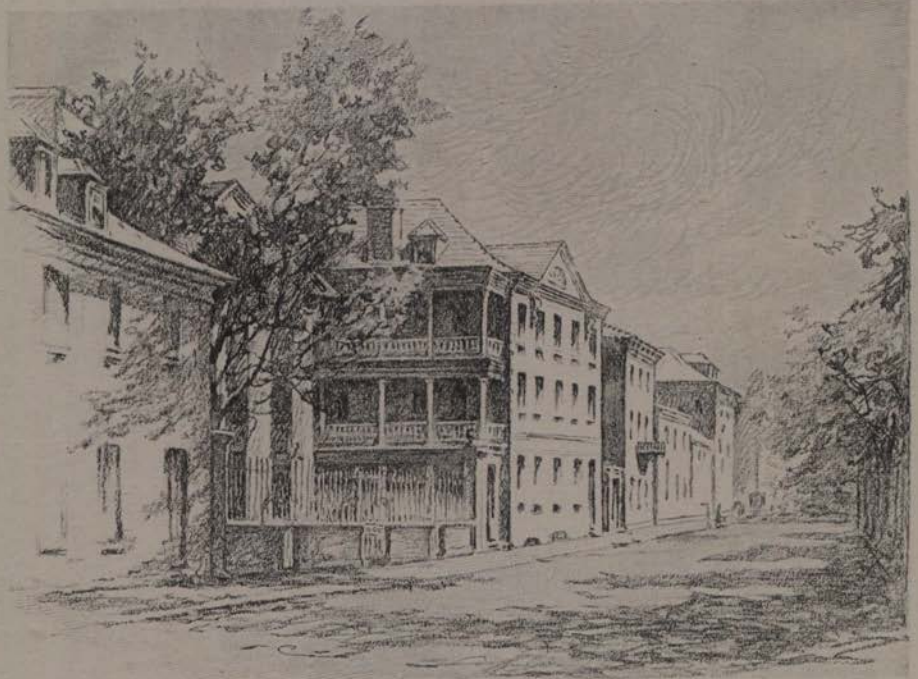
The two remaining objections made by the ordinance to these laws, are that the sums intended to be raised

by them are greater than are required, and that the proceeds will be unconstitutionally employed.

The Constitution has given, expressly, to Congress the right of raising revenue, and of determining the sum the public exigencies will require. The States have no control over the exercise of this right other than that which results from the power of changing the representatives who abuse it, and thus procure redress. Congress may, undoubtedly, abuse this discretionary power, but the same may be said of others with which they are vested. Yet the discretion must exist somewhere. The Constitution has given it to the representatives of all the people, checked by the representatives of the States, and by the Executive Power. The South Carolina construction gives it to the Legislature or the Convention of a single State, where neither the people of the different States, nor the States in their separate capacity, nor the Chief Magistrate elected by the people, have any representation. Which is the most discreet disposition of the power? I do not ask you, fellow citizens, which is the constitutional disposition—that instrument speaks a language not to be misunderstood. But if you were assembled in general Convention, which would you think the safest depository of this discretionary power in the last resort? Would you add a clause giving it to each of the States, or would you sanction the wise provisions already made by your Constitution? . . .

The ordinance, with the same knowledge of the future that characterizes a former objection, tells you that the proceeds of the tax will be unconstitutionally applied. If this could be ascertained with certainty, the objection would, with more propriety, be reserved for the law so applying the proceeds, but surely can not be urged against the laws levying the duty. . . .

On such expositions and reasonings, the ordinance grounds not only an assertion of the right to annul the laws of which it complains, but to enforce it by a threat



A GROUP OF SOME OF THE OLDEST HOUSES, CHARLESTON, SOUTH CAROLINA

(From a drawing by Alice R. Huger-Smith)

of seceding from the Union if any attempt is made to execute them.

This right to secede is deduced from the nature of the Constitution, which, they say, is a compact between sovereign States, who have preserved their whole sovereignty, and, therefore, are subject to no superior; that, because they made the compact, they can break it when, in their opinion, it has been departed from by the other States. Fallacious as this course of reasoning is, it enlists State pride, and finds advocates in the honest prejudices of those who have not studied the nature of our Government sufficiently to see the radical error on which it rests.

The people of the United States formed the Constitution, acting through the State Legislatures in making the compact, to meet and discuss its provisions, and acting in separate Conventions when they ratified those provisions: but the terms used in its construction, show it to be a government in which the people of all the States collectively are represented. . . .

The Constitution of the United States then forms a *government*, not a league; and whether it be formed by compact between the States, or in any other manner, its character is the same. It is a government in which all the people are represented, which operates directly on the people individually, not upon the States—they retained all the power they did not grant. But each State having expressly parted with so many powers as to constitute, jointly with the other States, a single nation, cannot, from that period, possess any right to secede, because such secession does not break a league, but destroys the unity of a nation; and any injury to that unity is not only a breach which would result from the contravention of a compact, but it is an offence against the whole Union. To say that any State may at pleasure secede from the Union, is to say that the United States are not a nation, because it would be a

solecism to contend that any part of a nation might dissolve its connexion with the other parts, to their injury or ruin, without committing any offence. Secession, like any other revolutionary act, may be morally justified by the extremity of oppression; but to call it a constitutional right, is confounding the meaning of terms; and can only be done through gross error, or to deceive those who are willing to assert a right, but would pause before they made a revolution, or incur the penalties consequent on a failure.

Because the Union was formed by compact, it is said the parties to that compact may, when they feel themselves aggrieved, depart from it: but it is precisely because it is a compact that they cannot. A compact is an agreement or binding obligation. It may by its terms have a sanction or penalty for its breach or it may not. If it contains no sanction, it may be broken with no other consequence than moral guilt: if it have a sanction, then the breach insures the designated or implied penalty. A league between independent nations, generally, has no sanction other than a moral one; or if it should contain a penalty, as there is no common superior, it cannot be enforced. A government, on the contrary, always has a sanction, express or implied; and, in our case, it is both necessarily implied and expressly given. An attempt, by force of arms, to destroy a government, is an offence by whatever means the constitutional compact may have been formed, and such government has the right, by the law of self-defence, to pass acts for punishing the offender, unless that right is modified, restrained, or resumed by the constitutional act. In our system, although it is modified in the case of treason, yet authority is expressly given to pass all laws necessary to carry its powers into effect, and, under this grant, provision has been made for punishing acts which obstruct the due administration of the laws.

It would seem superfluous to add anything to show the nature of that union which connects us; but, as erroneous opinions on this subject are the foundation of doctrines the most destructive to our peace, I must give some further development to my views on this subject. No one, fellow citizens, has a higher reverence for the reserved rights of the States than the magistrate who now addresses you. No one would make greater personal sacrifices, or official exertions, to defend them from violation; but equal care must be taken to prevent, on their part, an improper interference with, or resumption of, the rights they have vested in the nation. The line has not been so distinctly drawn as to avoid doubts in some cases of the exercise of power. Men of the best intentions and soundest views may differ in their construction of some parts of the Constitution; but there are others on which dispassionate reflection can leave no doubt. Of this nature appears to be the assumed right of secession. It treats [*rests*], as we have seen, on the alleged undivided sovereignty of the States, and of their having formed, in this sovereign capacity, a compact which is called the Constitution, from which, because they made it, they have the right to secede. Both of these positions are erroneous, and some of the arguments to prove them so have been anticipated.

The States severally have not retained their entire sovereignty. It has been shown that, in becoming parts of a nation, not members of a league, they surrendered many of their essential parts of sovereignty. The right to make treaties—declare war—levy taxes—exercise exclusive judicial and legislative powers—were all of them functions of sovereign power. The States, then, for all these purposes, were no longer sovereign. The allegiance of their citizens was transferred, in the first instance, to the Government of the United States: they became American citizens, and owed obedience to the Constitution of the United States, and to laws made in con-

EDWARD LIVINGSTON

(Jackson's Secretary of State from 1831 to 1833. He is credited with having written Jackson's Proclamation to the People of South Carolina)

formity with the powers it vested in Congress. This last position has not been, and cannot be denied. How, then, can that State be said to be sovereign and independent whose citizens owe obedience to laws not made by it, and whose magistrates are sworn to disregard those laws when they come in conflict with those passed by another? What shows conclusively that the States cannot be said to have reserved an undivided sovereignty, is, that they expressly ceded the right to punish treason, not treason against their separate power, but treason against the United States. Treason is an offence against *sovereignty*, and sovereignty must reside with the power to punish it. But the reserved rights of the States are not less sacred because they have, for their common interest, made the General Government a depository of these powers.

The unity of our political character (as has been shown for another purpose) commenced with its very existence. Under the royal government we had no separate character: our opposition to its oppressions began as UNITED COLONIES. We were the UNITED STATES under the confederation, and the name was perpetuated, and the Union rendered more perfect, by the Federal Constitution. In none of these stages did we consider ourselves in any other light than as forming one nation. Treaties and alliances were made in the name of all. Troops were raised for the joint defence. How, then, with all these proofs, that under all changes of our position we had, for designated purposes and defined powers, created national governments—how is it, that the most perfect of those several modes of union should now be considered as a mere league that may be dissolved at pleasure? It is from an abuse of terms. Compact is used as synonymous with league, although the true term is not employed, because it would at once show the fallacy of the reasoning. It would not do to say that our Constitution was only a league, but it is

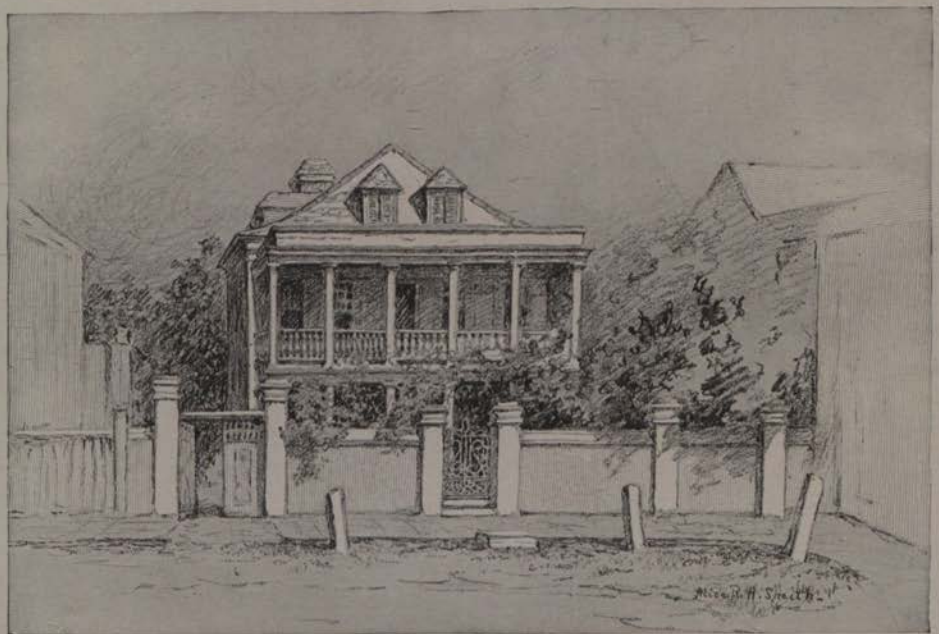
labored to prove it a compact, (which in one sense it is,) and then to argue that as a league is a compact, every compact between nations must of course be a league, and that from such an engagement every sovereign power has the right to recede. But it has been shown that, in this sense, the States are not sovereign, and that even if they were, and the national Constitution had been formed by compact, there would be no right in any one State to exonerate itself from its obligations.

So obvious are the reasons which forbid this secession, that it is necessary only to allude to them. The Union was formed for the benefit of all. It was produced by mutual sacrifices of interests and opinions. Can those sacrifices be recalled? Can the States, who magnanimously surrendered their title to the territories of the west, recall the grant? Will the inhabitants of the inland States agree to pay the duties that may be imposed without their assent by those on the Atlantic or the Gulf, for their own benefit? Shall there be a free port in one State, and onerous duties in another? No one believes that any right exists in a single State to involve all the others in these and countless other evils contrary to the engagements solemnly made. Every one must see that the other States, in self defence, must oppose it at all hazards.

These are the alternatives that are presented by the Convention: a repeal of all the acts for raising revenue, leaving the Government without the means of support, or an acquiescence in the dissolution of our Union by the secession of one of its members. When the first was proposed, it was known that it could not be listened to for a moment. It was known, if force was applied to oppose the execution of the laws that it must be repelled by force; that Congress could not, without involving itself in disgrace and the country in ruin, accede to the proposition: and yet if this is not done in a given day,

or if any attempt is made to execute the laws, the State is, by the ordinance, declared to be out of the Union. The majority of a Convention assembled for the purpose, have dictated these terms, or rather this rejection of all terms, in the name of the people of South Carolina. It is true that the Governor of the State speaks of the submission of their grievances to a Convention of all the States, which, he says, they "sincerely and anxiously seek and desire." Yet this obvious and constitutional mode of obtaining the sense of the other States on the construction of the federal compact, and amending it, if necessary, has never been attempted by those who have urged the State on to this destructive measure. The State might have proposed the call for a General Convention to the other States; and Congress, if a sufficient number of them concurred, must have called it. But the first magistrate of South Carolina, when he expressed a hope that, "on a review by Congress and the functionaries of the General Government, of the merits of the controversy," such a Convention will be accorded to them, must have known that neither Congress, nor any functionary of the General Government, has authority to call such a Convention, unless it be demanded by two-thirds of the States. This suggestion, then, is another instance of the reckless inattention to the provisions of the Constitution with which this crisis has been madly hurried on; or of the attempt to persuade the people that a constitutional remedy had been sought and refused. If the Legislature of South Carolina "anxiously desire" a General Convention to consider their complaints, why have they not made application for it in the way the Constitution points out? The assertion that they "earnestly seek it" is completely negatived by the omission.

This, then, is the position in which we stand. A small majority of the citizens of one State in the Union have elected delegates to a State Convention; that Conven-



A TYPICAL OLD CHARLESTON MANSION. THE GEORGE EVELEIGH HOUSE IN CHURCH STREET
(From a drawing by Alice Huger-Smith)

tion has ordained that all the revenue laws of the United States must be repealed, or that they are no longer a member of the Union. The Governor of that State has recommended to the Legislature the raising of an army to carry the secession into effect, and that he may be empowered to give clearances to vessels in the name of the State. No act of violent opposition to the laws has yet been committed, but such a state of things is hourly apprehended; and it is the intent of this instrument to proclaim, not only that the duty imposed on me by the Constitution "to take care that the laws be faithfully executed," shall be performed to the extent of the powers already vested in me by law, or of such others as the wisdom of Congress shall devise and entrust to me for that purpose, but to warn the citizens of South Carolina who have been deluded into an opposition to the laws, of the danger they will incur by obedience to the illegal and disorganizing ordinance of the Convention; to exhort those who have refused to support it to persevere in their determination to uphold the Constitution and laws of their country; and to point out to all the perilous situation into which the good people of that State have been led, and that the course they are urged to pursue is one of ruin and disgrace to the very State whose rights they affect to support. . . .

Fellow citizens of the United States! The threat of unhallowed disunion—the names of those once respected, by whom it was uttered—the array of military force to support it—denote the approach of a crisis in our affairs, on which the continuance of our unexampled prosperity, our political existence, and perhaps that of all free governments, may depend. The conjuncture demanded a free, a full, and explicit enunciation, not only of my intentions, but of my principles of action; and, as the claim was asserted of a right by a State to annul the laws of the Union, and even to secede from it at pleasure, a frank exposition of my opinions in relation to the origin

and form of our Government, and the construction I give to the instrument by which it was created, seemed to be proper. Having the fullest confidence in the justness of the legal and constitutional opinion of my duties, which has been expressed, I rely, with equal confidence, on your undivided support in my determination to execute the laws—to preserve the Union by all constitutional means—to arrest, if possible, by moderate but firm measures, the necessity of a recourse to force; and, if it be the will of Heaven, that the recurrence of its primeval curse on man for the shedding of a brother's blood should fall upon our land, that it be not called down by any offensive act on the part of the United States. . . .

Jackson's Veto of the Recharter of the Bank of the United States, 1832

His views on the constitutionality and expediency of the law creating the Bank of the United States and the expectation that an attempt would be made to secure a renewal of the bank's charter, which would expire in 1836, led Jackson to throw the question into the Congress, which he did in his first annual message on December 8, 1829, his second on December 7, 1830, and his third on December 6, 1831. A renewal of the charter was sought by a bill in Congress on January 9, 1832, and, after being amended in each House, was passed, sent to the President for approval, and vetoed by him on July 10th. Extracts from text in "Senate Document" No. 180, Twenty-second Congress, First Session (1831–32), Serial No. 214, and "House Executive Document" No. 300, Twenty-second Congress, First Session (1831–32), Serial No. 221. (See page 52.)

A Bank of the United States is, in many respects, convenient for the Government, and useful to the people. Entertaining this opinion, and deeply impressed with the belief that some of the powers and privileges possessed by the existing bank are unauthorized by the constitution, subversive of the rights of the States, and dangerous to the liberties of the people, I felt it my duty, at an early period of my administration, to call the attention of Congress to the practicability of or-

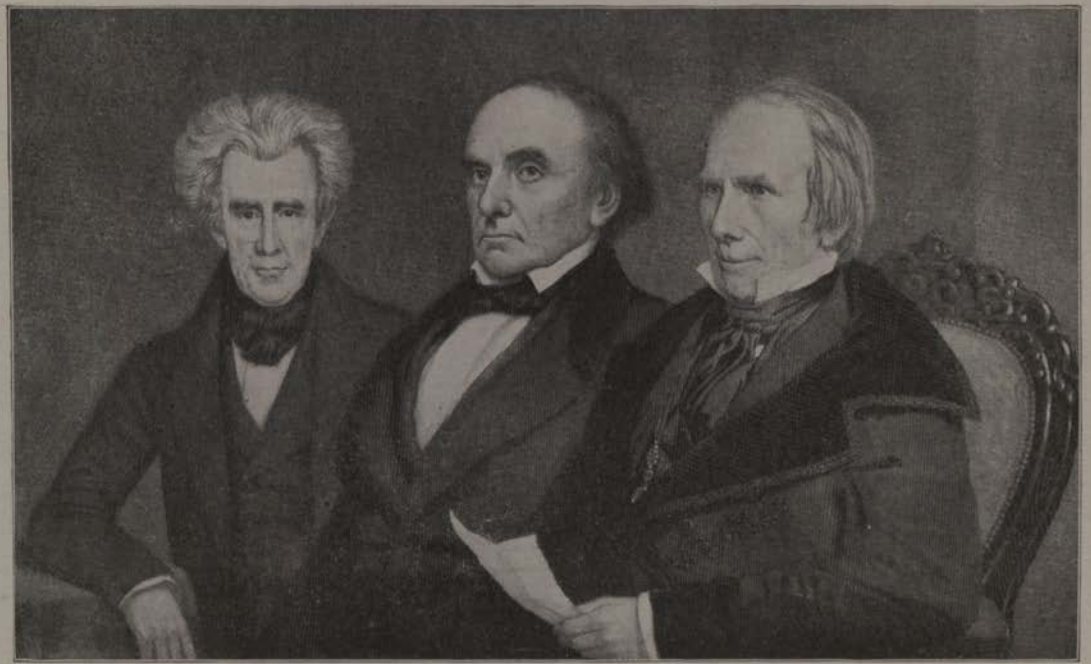
SAMUEL D. INGHAM

Appointed Secretary of the Treasury in 1829 by President Jackson. He resigned in 1831 on account of his objection to the "Kitchen Cabinet".

ganizing an institution combining all its advantages, and obviating these objections. I sincerely regret, that, in the act before me, I can perceive none of those modifications of the bank charter which are necessary, in my opinion, to make it compatible with justice, with sound policy, or with the constitution of our country. . . .

Every monopoly, and all exclusive privileges, are granted at the expense of the public, which ought to receive a fair equivalent. The many millions which this act proposes to bestow on the stockholders of the existing bank, must come directly or indirectly out of the earnings of the American people. It is due to them, therefore, if their Government sell monopolies and exclusive privileges, that they should at least exact for them as much as they are worth in open market. The value of the monopoly in this case may be correctly ascertained. The twenty-eight millions of stock would probably be at an advance of fifty per cent., and command in market at least forty-two millions of dollars, subject to the payment of the present bonus. The present value of the monopoly, therefore, is seventeen millions of dollars, and this the act proposes to sell for three millions, payable in fifteen annual instalments of $200,000 each.

It is not conceivable how the present stockholders can have any claim to the special favor of the Government. The present corporation has enjoyed its monopoly during the period stipulated in the original contract. If we must have such a corporation, why should not the Government sell out the whole stock, and thus secure to the people the full market value of the privileges granted? Why should not Congress create and sell twenty-eight millions of stock, incorporating the purchasers with all the powers and privileges secured in this act, and putting the premium upon the sales into the Treasury? . . .



JACKSON, WEBSTER, AND CLAY
(From an engraving by John Sartain)

It has been urged as an argument in favor of rechartering the present bank, that the calling in its loans will produce great embarrassment and distress. The time allowed to close its concerns is ample; and if it has been well managed, its pressure will be light, and heavy only in case its management has been bad. If, therefore, it shall produce distress, the fault will be its own; and it would furnish a reason against renewing a power which has been so obviously abused. But will there ever be a time when this reason will be less powerful? To acknowledge its force, is to admit that the bank ought to be perpetual; and, as a consequence, the present stockholders, and those inheriting their rights as successors, be established a privileged order, clothed both with great political power, and enjoying immense pecuniary advantages, from their connection with the Government.

The modifications of the existing charter, proposed by this act, are not such, in my view, as make it consistent with the rights of the States or the liberties of the people. The qualification of the right of the bank to hold real estate, the limitation of its power to establish branches, and the power reserved to Congress to forbid the circulation of small notes, are restrictions comparatively of little value or importance. All the objectionable principles of the existing corporation, and most of its odious features, are retained without alleviation. . . .

Is there no danger to our liberty and independence in a bank, that, in its nature, has so little to bind it to our country? The President of the bank has told us that most of the State banks exist by its forbearance. Should its influence become concentered, as it may under the operation of such an act as this, in the hands of a self-elected directory, whose interests are identified with those of the foreign stockholders, will there not be cause to tremble for the purity of our elections in peace, and

for the independence of our country in war? Their power would be great whenever they might choose to exert it; but if this monopoly were regularly renewed every fifteen or twenty years, on terms proposed by themselves, they might seldom in peace put forth their strength to influence elections, or control the affairs of the nation. But if any private citizen or public functionary should interpose to curtail its powers, or prevent a renewal of its privileges, it cannot be doubted that he would be made to feel its influence.

Should the stock of the bank principally pass into the hands of the subjects of a foreign country, and we should unfortunately become involved in a war with that country, what would be our condition? Of the course which would be pursued by a bank almost wholly owned by the subjects of a foreign power, and managed by those whose interests, if not affections, would run in the same direction, there can be no doubt. All its operations within, would be in aid of the hostile fleets and armies without. Controlling our currency, receiving our public moneys, and holding thousands of our citizens in dependence, it would be more formidable and dangerous than the naval and military power of the enemy.

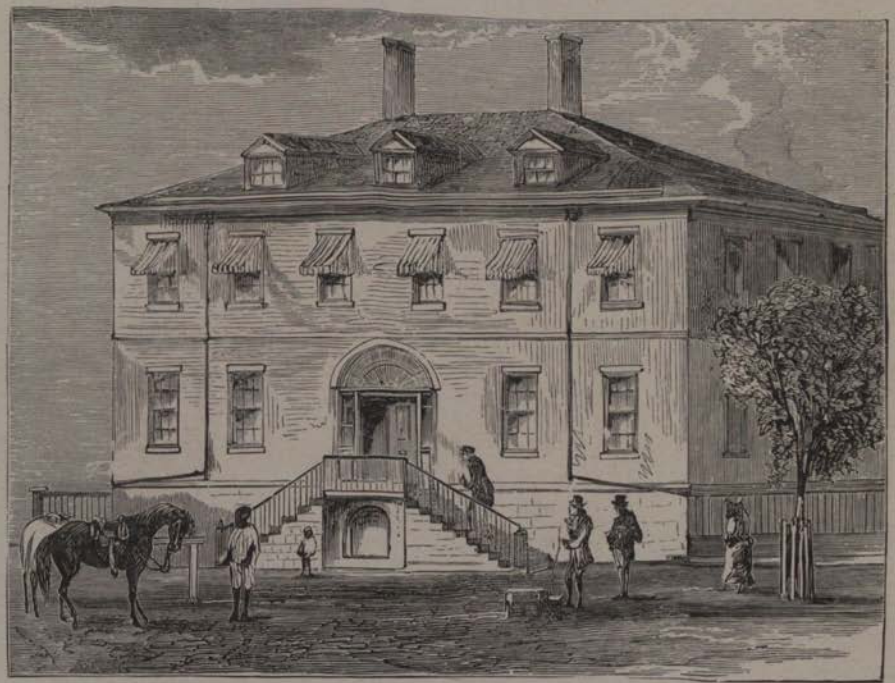
If we must have a bank with private stockholders, every consideration of sound policy, and every impulse of American feeling, admonishes that it should be *purely American*. . . .

It is maintained by the advocates of the bank that its constitutionality in all its features ought to be considered as settled by precedent, and by the decision of the Supreme Court. To this conclusion I cannot assent. Mere precedent is a dangerous source of authority, and should not be regarded as deciding questions of constitutional power, except where the acquiescence of the people and the States can be considered as well settled. So far from this being the case on this subject, an argu-

ment against the bank might be based on precedent. One Congress, in 1791, decided in favor of a bank; another, in 1811, decided against it. One Congress, in 1815, decided against a bank; another, in 1816, decided in its favor. Prior to the present Congress, therefore, the precedents drawn from that source were equal. If we resort to the States, the expressions of legislative, judicial, and executive opinions against the bank, have been, probably, to those in its favor, as four to one. There is nothing in precedent, therefore, which, if its authority were admitted, ought to weigh in favor of the act before me.

If the opinion of the Supreme Court covered the whole ground of this act, it ought not to control the co-ordinate authorities of this Government. The Congress, the Executive, and the Court, must each for itself be guided by its own opinion of the constitution. Each public officer, who takes an oath to support the constitution, swears that he will support it as he understands it, and not as it is understood by others. It is as much the duty of the House of Representatives, of the Senate, and of the President, to decide upon the constitutionality of any bill or resolution which may be presented to them for passage or approval, as it is of the Supreme Judges when it may be brought before them for judicial decision. The opinion of the judges has no more authority over Congress, than the opinion of Congress has over the judges; and, on that point, the President is independent of both. The authority of the Supreme Court must not, therefore, be permitted to control the Congress or the Executive when acting in their legislative capacities, but to have only such influence as the force of their reasoning may deserve.

But, in the case relied upon, the Supreme Court have not decided that all the features of this corporation are compatible with the constitution. It is true that the court have said that the law incorporating the bank is

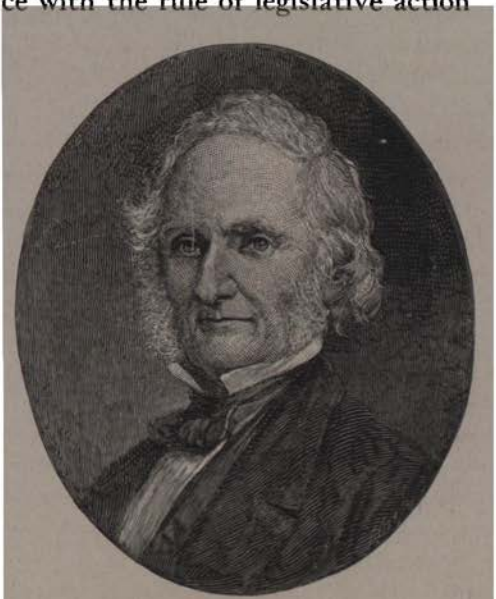


THE UNITED STATES TREASURY BUILDING, WASHINGTON, D. C.
(Erected in 1800, burned by the British in August, 1814)

a constitutional exercise of power by Congress. But, taking into view the whole opinion of the court, and the reasoning by which they have come to that conclusion, I understand them to have decided that, inasmuch as a bank is an appropriate means for carrying into effect the enumerated powers of the General Government, therefore the law incorporating it is in accordance with that provision of the constitution which declares that Congress shall have power "to make all laws which shall be necessary and proper for carrying those powers into execution." Having satisfied themselves that the word "*necessary*" in the constitution, means "*needful*," "*requisite*," "*essential*," "*conducive to*," and that "a bank" is a convenient, a useful, and essential instrument, in the prosecution of the Government's "fiscal operations," they conclude, that to "use one must be within the discretion of Congress," and that "the act to incorporate the Bank of the United States is a law made in pursuance of the constitution": "but," say they, "*where the law is not prohibited, and is really calculated to effect any of the objects entrusted to the Government, to undertake here to inquire into the degree of its necessity, would be to pass the line which circumscribes the judicial department, and to tread on legislative ground.*"

The principle here affirmed is, that "the degree of its necessity," involving all the details of a banking institution, is a question exclusively for legislative consideration. A bank is constitutional; but it is the province of the Legislature to determine whether this or that particular power, privilege, or exemption, is "necessary and proper" to enable the bank to discharge its duties to the Government; and, from their decision, there is no appeal to the courts of justice. Under the decision of the Supreme Court, therefore, it is the exclusive province of Congress and the President to decide whether the particular features of this act are *necessary* and

proper in order to enable the bank to perform conveniently and efficiently the public duties assigned to it as a fiscal agent, and therefore constitutional; or *unnecessary* and *improper*, and therefore unconstitutional. Without commenting on the general principle affirmed by the Supreme Court, let us examine the details of this act in accordance with the rule of legislative action which they have laid down. It will be found that many of the powers and privileges conferred on it cannot be supposed necessary for the purpose for which it is proposed to be created, and are not, therefore, means necessary to attain the end in view, and consequently not justified by the constitution. . . .



AMOS KENDALL

(Postmaster-General (1835–40) in Jackson's administration and member of the famous "Kitchen Cabinet")

. . . That a Bank of the United States, competent to all the duties which may be required by the Government, might be so organized as not to infringe on our own delegated powers, or the reserved rights of the States, I do not entertain a doubt. Had the Executive been called upon to furnish the project of such an institution, the duty would have been cheerfully performed. In the absence of such a call, it is obviously proper that he should confine himself to pointing out those prom-

inent features in the act presented, which, in his opinion, make it incompatible with the constitution and sound policy. A general discussion will now take place, eliciting new light, and settling important principles; and a new Congress, elected in the midst of such discussion, and furnishing an equal representation of the people according to the last census, will bear to the Capitol the verdict of public opinion, and, I doubt not, bring this important question to a satisfactory result.

Under such circumstances, the bank comes forward and asks a renewal of its charter for a term of fifteen years, upon conditions which not only operate as a gratuity to the stockholders of many millions of dollars, but will sanction any abuses and legalize any encroachments.

Suspicions are entertained, and charges are made, of gross abuse and violation of its charter. An investigation unwillingly conceded, and so restricted in time as necessarily to make it incomplete and unsatisfactory, discloses enough to excite suspicion and alarm. In the practices of the principal bank partially unveiled, in the absence of important witnesses, and in numerous charges confidently made, and as yet wholly uninvestigated, there was enough to induce a majority of the Committee of Investigation, a committee which was selected from the most able and honorable members of the House of Representatives to recommend a suspension of further action upon the bill, and a prosecution of the inquiry. As the charter had yet four years to run, and as a renewal now was not necessary to the successful prosecution of its business, it was to have been expected that the bank itself, conscious of its purity, and proud of its character, would have withdrawn its application for the present, and demanded the severest scrutiny into all its transactions. In their declining to do so, there seems to be an additional reason why

the functionaries of the Government should proceed with less haste, and more caution, in the renewal of their monopoly.

The bank is professedly established as an agent of the Executive branches of the Government, and its constitutionality is maintained on that ground. Neither upon the propriety of present action, nor upon the provisions of this act, was the Executive consulted. It has had no opportunity to say that it neither needs nor wants an agent clothed with such powers, and favored by such exemptions. There is nothing in its legitimate functions which make it necessary or proper. Whatever interest or influence, whether public or private, has given birth to this act, it cannot be found either in the wishes or necessities of the Executive Department, by which present action is deemed premature, and the powers conferred upon its agent not only unnecessary, but dangerous to the Government and country. . . .

I have now done my duty to my country. If sustained by my fellow-citizens, I shall be grateful and happy; if not, I shall find, in the motives which impel me, ample grounds for contentment and peace. In the difficulties which surround us, and the dangers which threaten our institutions, there is cause for neither dismay nor alarm. For relief and deliverance let us firmly rely on that kind Providence which, I am sure, watches with peculiar care over the destinies of our Republic, and on the intelligence and wisdom of our countrymen. Through *His* abundant goodness, and *their* patriotic devotion, our liberty and Union will be preserved.

Act for Enforcing the Tariff, 1833

In the Nullification controversy in 1832–33 a bill was reported by the Committee of Ways and Means of the House to reduce the tariff; another, by the Committee on the Judiciary of the Senate, to enforce the collection of revenue. A compromise tariff bill was introduced in the Senate. The Act to enforce the collection of revenue, which became popularly known as the "Force Bill," was passed in the Senate on February 20th, and in the House on March 1, 1833. The text of the Act is in "United States Statutes at Large," Vol. IV., pp. 632–635. (See page 97.)

An Act further to provide for the collection of duties on imports.

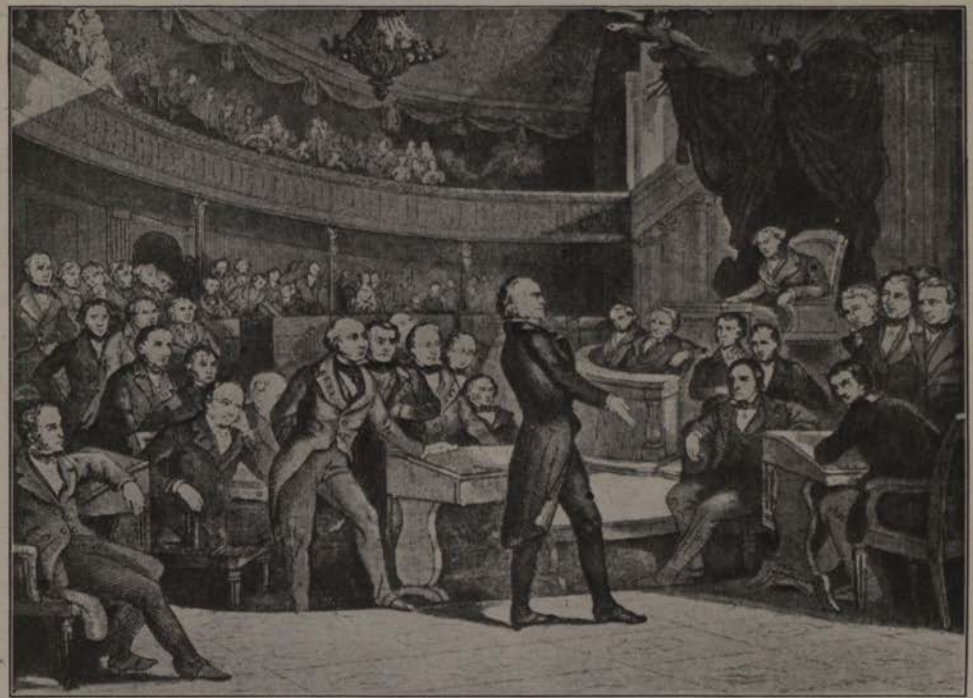
Be it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled, That whenever, by reason of unlawful obstructions, combinations, or assemblages of persons, it shall become impracticable, in the judgment of the President, to execute the revenue laws, and collect the duties on imports in the ordinary way, in any collection district, it shall and may be lawful for the President to direct that the custom-house for such district be established and kept in any secure place within some port or harbour of such district, either upon land or on board any vessel; and, in that case, it shall be the duty of the collector to reside at such place, and there to detain all vessels and cargoes arriving within the said district until the duties imposed

on said cargoes, by law, be paid in cash, deducting interest according to existing laws; and in such cases it shall be unlawful to take the vessel or cargo from the custody of the proper officer of the customs, unless by process from some Court of the United States; and in case of any attempt otherwise to take such vessel or cargo by any force, or combination, or assemblage of persons too great to be overcome by the officers of the customs, it shall and may be lawful for the President of the United States, or such person or persons as he shall have empowered for that purpose, to employ such part of the land or naval forces, or militia of the United States, as may be deemed necessary for the purpose of preventing the removal of such vessel or cargo, and protecting the officers of the customs in retaining the custody thereof.

SEC. 2. *And be it further enacted*, That the jurisdiction of the circuit courts of the United States shall extend to all cases, in law or equity, arising under the revenue laws of the United States, for which other provisions are not already made by law; and if any person shall receive any injury to his person or property for or on account of any act by him done, under any law of the United States, for the protection of the revenue or the collection of duties on imports, he shall be entitled to maintain suit for damage therefor in the circuit court of the United States in the district wherein the party doing the injury may reside, or shall be found. And all property taken or detained by any officer or other person under authority of any revenue law of the United States, shall be irrepleviable, and shall be deemed to be in the custody of the law, and subject only to the orders and decrees of the courts of the United States having jurisdiction thereof. And if any person shall dispossess or rescue, or attempt to dispossess or rescue any property so taken or detained as aforesaid, or shall aid or assist therein, such person shall be deemed guilty

of a misdemeanour, and shall be liable to such punishment as is provided by the twenty-second section of the act for the punishment of certain crimes against the United States, approved the thirtieth day of April, Anno Domini one thousand seven hundred and ninety, for the wilful obstruction or resistance of officers in the service of process.

SEC. 3. *And be it further enacted*, That in any case where suit or prosecution shall be commenced in a court of any state, against any officer of the United States, or other person, for or on account of any act done under the revenue laws of the United States, or under colour thereof, or for or on account of any right, authority, or title, set up or claimed by such officer, or other person under any such law of the United States, it shall be lawful for the defendant in such suit or prosecution, at any time before trial, upon a petition to the circuit court of the United States, in and for the district in which the defendant shall have been served with process, setting forth the nature of said suit or prosecution, and verifying the said petition by affidavit, together with a certificate signed by an attorney or counsellor at law of some court of record of the state in which such suit shall have been commenced, or of the United States, setting forth that, as counsel for the petitioner, he has examined the proceedings against him, and has carefully inquired into all the matters set forth in the petition, and that he believes the same to be true; which petition, affidavit and certificate, shall be presented to the said circuit court, if in session, and if not, to the clerk thereof, at his office, and shall be filed in said office, and the cause shall thereupon be entered on the docket of said court, and shall be thereafter proceeded in as a cause originally commenced in that court; and it shall be the duty of the clerk of said court, if the suit were commenced in the court below by summons, to issue a writ of certiorari to the state court, requiring said court to



SCENE IN THE UNITED STATES SENATE IN THE THIRTIES. HENRY CLAY SPEAKING

send to the said circuit court the record and proceedings in said cause; or if it were commenced by capias, he shall issue a writ of habeas corpus cum causa, a duplicate of which said writ shall be delivered to the clerk of the state court, or left at his office by the marshal of the district, or his deputy, or some person duly authorized thereto; and, thereupon it shall be the duty of the said state court to stay all further proceedings in such cause and the said suit or prosecution, upon delivery of such process, or leaving the same as aforesaid, shall be deemed and taken to be moved to the said circuit court, and any further proceedings, trial or judgment therein in the state court shall be wholly null and void. And if the defendant in any such suit be in actual custody on mesne process therein, it shall be the duty of the marshal, by virtue of the writ of habeas corpus cum causa, to take the body of the defendant into his custody, to be dealt with in the said cause according to the rules of law and the order of the circuit court, or of any judge thereof, in vacation. And all attachments made and all bail and other security given upon such suit, or prosecution, shall be and continue in like force and effect, as if the same suit or prosecution had proceeded to final judgment and execution in the state court. And if, upon the removal of any such suit, or prosecution, it shall be made to appear to the said circuit court that no copy of the record and proceedings therein, in the state court, can be obtained, it shall be lawful for said circuit court to allow and require the plaintiff to proceed *de novo*, and to file a declaration of his cause of action, and the parties may thereupon proceed as in actions originally brought in said circuit court; and on failure of so proceeding, judgment of *non pros.* may be rendered against the plaintiff with costs for the defendant.

SEC. 4. *And be it further enacted*, That in any case in which any party is, or may be by law, entitled to copies of the record and proceedings in any suit or prosecution

in any state court, to be used in any court of the United States, if the clerk of said state court shall, upon demand, and the payment or tender of the legal fees, refuse or neglect to deliver to such party certified copies of such record and proceedings, the court of the United States in which such record and proceedings may be needed, on proof, by affidavit, that the clerk of such state court has refused or neglected to deliver copies thereof, on demand as aforesaid, may direct and allow such record to be supplied by affidavit, or otherwise, as the circumstances of the case may require and allow; and, thereupon, such proceeding, trial, and judgment, may be had in the said court of the United States, and all such processes awarded, as if certified copies of such records and proceedings had been regularly before the said court.

SEC. 5. *And be it further enacted*, That whenever the President of the United States shall be officially informed, by the authorities of any state, or by a judge of any circuit or district court of the United States, in the state, that, within the limits of such state, any law or laws of the United States, or the execution thereof, or of any process from the courts of the United States, is obstructed by the employment of military force, or by any other unlawful means, too great to be overcome by the ordinary course of judicial proceeding, or by the powers vested in the marshal by existing laws, it shall be lawful for him, the President of the United States, forthwith to issue his proclamation, declaring such fact or information, and requiring all such military and other force forthwith to disperse; and if at any time after issuing such proclamation, any such opposition or obstruction shall be made, in the manner or by the means aforesaid, the President shall be, and hereby is, authorized, promptly to employ such means to suppress the same, as are authorized and provided in the cases therein mentioned by the act of the twenty-eighth of

February, one thousand seven hundred and ninety-five, entitled "An act to provide for calling forth the militia to execute the laws of the Union, suppress insurrections, repel invasions, and to repeal the act now in force for that purpose;" and also, by the act of the third of March, one thousand eight hundred and seven, entitled "An act authorizing the employment of the land and naval forces of the United States in cases of insurrection."

SEC. 6. *And be it further enacted*, That in any state where the jails are not allowed to be used for the imprisonment of persons arrested or committed under the laws of the United States, or where houses are not allowed to be so used, it shall and may be lawful for any marshal, under the direction of the judge of the United States for the proper district, to use other convenient places, within the limits of said state, and to make such other provision as he may deem expedient and necessary for that purpose.

SEC. 7. *And be it further enacted*, That either of the justices of the Supreme Court, or a judge of any district court of the United States, in addition to the authority already conferred by law, shall have power to grant writs of habeas corpus in all cases of a prisoner or prisoners, in jail or confinement, where he or they shall be committed or confined on, or by any authority or law, for any act done, or omitted to be done, in pursuance of a law of the United States, or any order, process, or decree, of any judge or court thereof, any thing in any act of Congress to the contrary notwithstanding. And if any person or persons to whom such writ of habeas corpus may be directed, shall refuse to obey the same, or shall neglect or refuse to make return, or shall make a false return thereto, in addition to the remedies already given by law, he or they shall be deemed and taken to be guilty of a misdemeanor, and shall, on conviction before any court of competent jurisdiction, be punished by fine, not exceeding one thousand dollars, and by im-

prisonment, not exceeding six months, or by either, according to the nature and aggravation of the case.

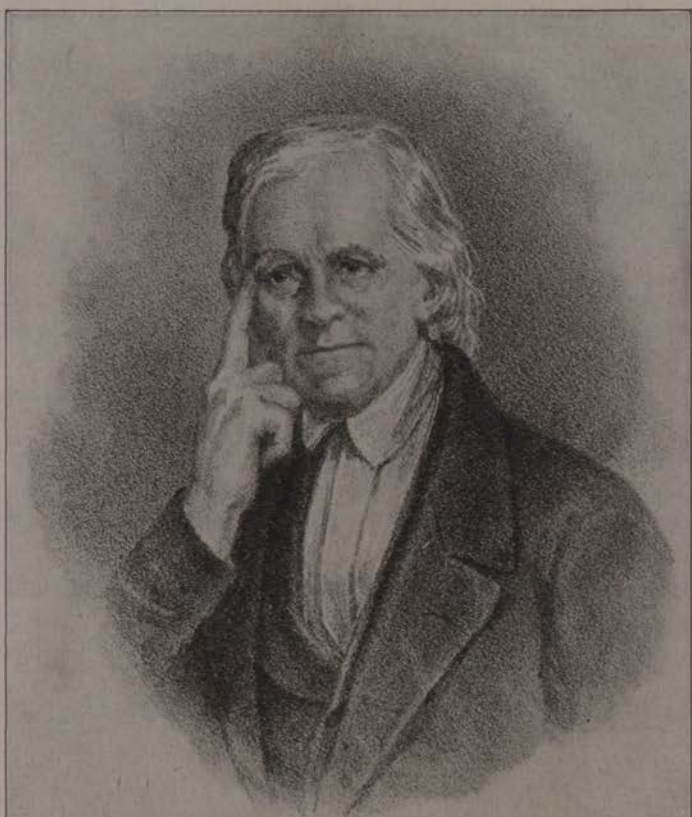
SEC. 8. *And be it further enacted*, That the several provisions contained in the first and fifth sections of this act, shall be in force until the end of the next session of Congress, and no longer.

Removal of the United States Bank Deposits, 1833

Jackson's various steps in his opposition to the Bank of the United States have been noted on pages 204–215. Believing that the bank was unsound, Jackson, in the summer of 1833, directed the Secretary of the Treasury to remove the public deposits therefrom. The Secretary declined and was removed; a successor was appointed and soon dismissed. Attorney-General Taney was then appointed Secretary; and the order for the removal was issued by him on September 26th. On September 18th Jackson presented to his Cabinet the following "paper," recounting his views and actions. Text in "Congressional Globe" (1833–35), Vol. I., pp. 59–62. (See page 54.)

Having carefully and anxiously considered all the facts and arguments, which have been submitted to him, relative to a removal of the public deposites from the bank of the United States, the President deems it his duty, to communicate in this manner to his cabinet the final conclusions of his own mind, and the reasons on which they are founded, in order to put them in durable form, and to prevent misconceptions. . . .

The power of the secretary of the treasury over the deposites is *unqualified.* The provision that he shall report his reasons to congress, is no limitation. Had it not been inserted, he would have been responsible to congress, had he made a removal for any other than

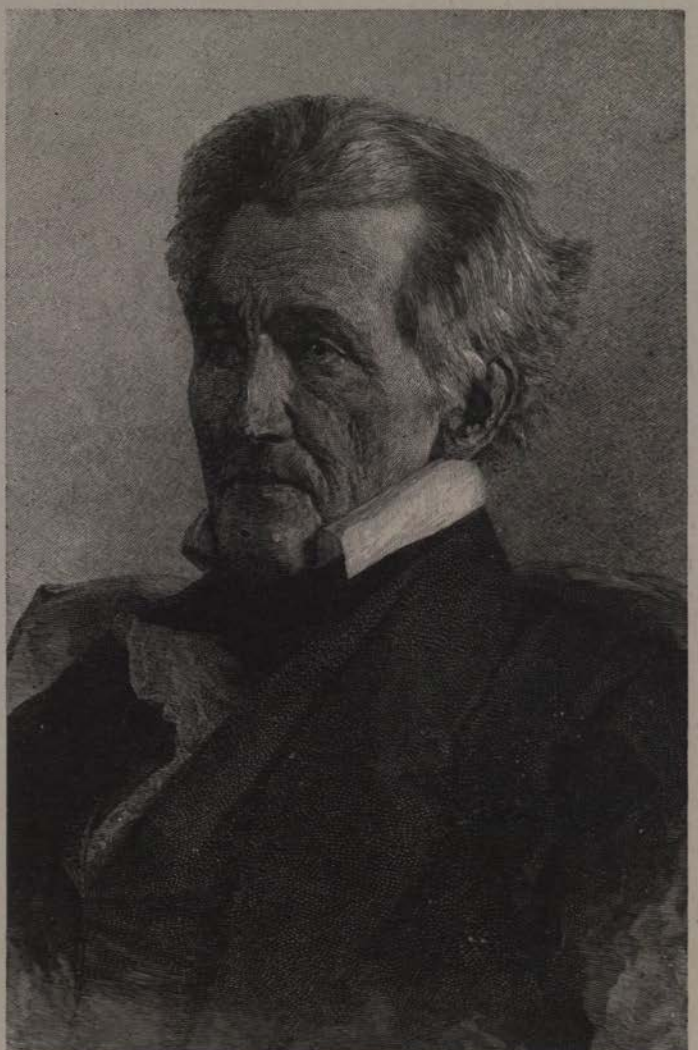


WILLIAM J. DUANE

(Secretary of the Treasury in 1833. He opposed President Jackson's action in the matter of the United States Bank, and was dismissed from office within four months of his appointment. He was succeeded by Roger B. Taney)

good reasons, and his responsibility now ceases, upon the rendition of sufficient ones to congress. The only object of the provision, is to make his reasons accessible to congress, and enable that body the more readily to judge of their soundness and purity, and thereupon to make such further provision by law as the legislative power may think proper in relation to the deposite of the public money. Those reasons may be very diversified. It was asserted by the secretary of the treasury without contradiction, as early as 1817, that he had power "to control the proceedings" of the bank of the United States at any moment, "by changing the deposites to the state banks," should it pursue an illiberal course towards those institutions; that "the secretary of the treasury will always be disposed to support the credit of the state banks, and will invariably direct transfers from the deposites of the public money in aid of their legitimate exertions to maintain their credit," and he asserted a right to employ the state banks when the bank of the United States should refuse to receive on deposite the notes of such state banks as the public interest required should be received in payment of the public dues. In several instances he did transfer the public deposites to state banks, in the immediate vicinity of branches, for reasons connected only with the safety of those banks, the public convenience and the interests of the treasury.

If it was lawful for Mr. Crawford, the secretary of the treasury at that time, to act on these principles, it will be difficult to discover any sound reason against the application of similar principles in still stronger cases. And it is a matter of surprise that a power which, in the infancy of the bank, was freely asserted as one of the ordinary and familiar duties of the secretary of the treasury, should now be gravely questioned, and attempts made to excite and alarm the public mind as if some new and unheard of power



ANDREW JACKSON

(From the engraving by G. Kruell after the lithograph by La Fosse, copyrighted by M. Knoedler & Co.)

was about to be usurped by the executive branch of the government.

It is but a little more than two and a half years to the termination of the charter of the present bank. It is considered as the decision of the country that it shall then cease to exist, and no man, the President believes, has reasonable ground for expectation that any other bank of the United States will be created by Congress. . . . It is obvious that any new system which may be substituted in the place of the bank of the United States, could not be suddenly carried into effect on the termination of its existence without serious inconvenience to the government and the people. Its vast amount of notes are then to be redeemed and withdrawn from circulation, and its immense debt collected. These operations must be gradual, otherwise much suffering and distress will be brought upon the community. It ought to be not a work of months only, but of years, and the President thinks it cannot, with due attention to the interests of the people, be longer postponed. It is safer to begin it too soon than to delay it too long.

It is for the wisdom of Congress to decide upon the best substitute to be adopted in the place of the bank of the United States; and the President would have felt himself relieved from a heavy and painful responsibility if in the charter of the bank, congress had reserved to itself the power of directing at its pleasure, the public money to be elsewhere deposited, and had not devolved that power exclusively on one of the executive departments. . . . But as the President presumes that the charter to the bank is to be considered as a contract on the part of the government, it is not now in the power of congress to disregard its stipulations; and by the terms of that contract the public money is to be deposited in the bank, during the continuance of its charter, unless the secretary of the treasury shall otherwise direct. Unless, therefore, the secretary of the

treasury first acts, congress have no power over the subject, for they cannot add a new clause to the charter or strike one out of it without the consent of the bank; and consequently the public money must remain in that institution to the last hour of its existence, unless the secretary of the treasury shall remove it at an earlier day.

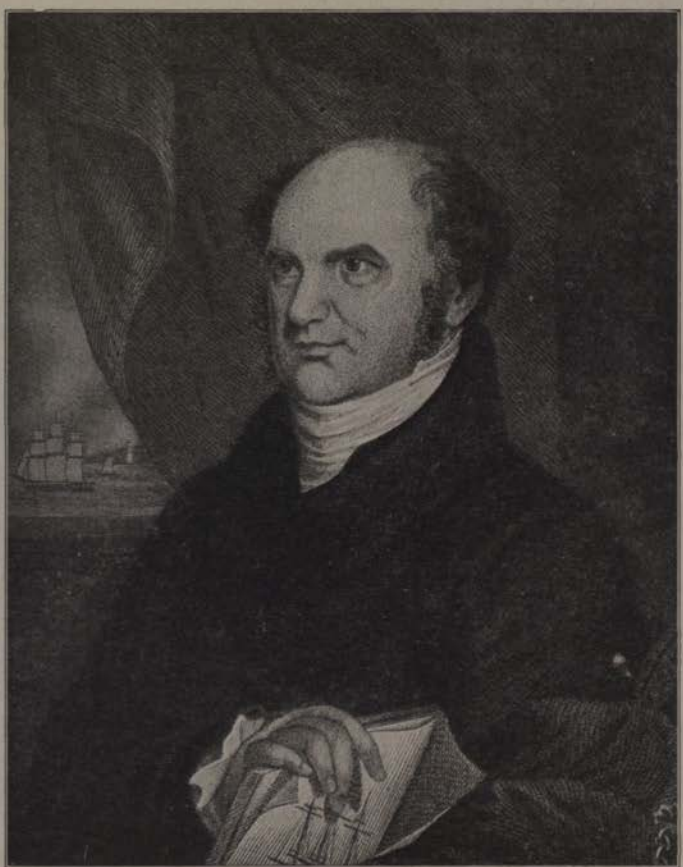
The responsibility is thus thrown upon the executive branch of the government, of deciding how long before the expiration of the charter, the public interests will require the deposites to be placed elsewhere . . . and it being the duty of one of the executive departments to decide in the first instance, subject to the future action of the legislative power, whether the public deposites shall remain in the bank of the United States until the end of its existence, or be withdrawn some time before, the President has felt himself bound to examine the question carefully and deliberately in order to make up his judgment on the subject: and in his opinion the near approach of the termination of the charter, and the public considerations heretofore mentioned, are of themselves amply sufficient to justify the removal of the deposites without reference to the conduct of the bank, or their safety in its keeping.

But in the conduct of the bank may be found other reasons very imperative in their character, and which require prompt action. Developments have been made from time to time of its faithlessness as a public agent, its misapplication of public funds, its interference in elections, its efforts, by the machinery of committees, to deprive the government directors of a full knowledge of its concerns, and above all, its flagrant misconduct as recently and unexpectedly disclosed in placing all the funds of the bank, including the money of the government, at the disposition of the president of the bank, as means of operating upon public opinion, and procuring a new charter, without requiring him to render a

voucher for their disbursement. A brief recapitulation of facts which justify these charges and which have come to the knowledge of the public and the President, will, he thinks, remove every reasonable doubt as to the course which it is now the duty of the President to pursue.

. . . . . .

It has been alleged by some as an objection to the removal of the deposites, that the bank has the power, and in that event will have the disposition, to destroy the state banks employed by the government, and bring distress upon the country. It has been the fortune of the President to encounter dangers which were represented as equally alarming, and he has seen them vanish before resolution and energy. . . . The President verily believes the bank has not the power to produce the calamities its friends threaten. The funds of the government will not be annihilated by being transferred. They will immediately be issued for the benefit of trade, and if the bank of the United States curtails its loans, the state banks, strengthened by the public deposites, will extend theirs. What comes in through one bank, will go out through others, and the equilibrium will be preserved. Should the bank, for the mere purpose of producing distress, press its debtors more heavily than some of them can bear, the consequences will recoil upon itself, and in the attempts to embarrass the country, it will only bring loss and ruin upon the holders of its own stock. But if the President believed the bank possessed all the power which has been attributed to it, his determination would only be rendered the more inflexible. If, indeed, this corporation now holds in its hands the happiness and prosperity of the American people, it is high time to take the alarm. If the despotism be already upon us, and our only safety is in the mercy of the despot, recent developments in relation



Levi Woodbury

(Chosen United States Senator in 1825 from New Hampshire, and received into the intimate counsels of President Jackson; instrumental in winning over New Hampshire from the Federalist to the Jackson interest. The portrait is from an engraving after a drawing by J. B. Longacre)

to his designs and the means he employs, show how necessary it is to shake it off. The struggle can never come with less distress to the people, or under more favorable auspices than at the present moment.

All doubts as to the willingness of state banks to undertake the service of the government, to the same extent, and on the same terms, as it is now performed by the banks [bank] of the United States, is put to rest by the report of the agent recently employed to collect information; and from that willingness, their own safety in the operation may be confidently inferred. Knowing their own resources better than they can be known by others, it is not to be supposed that they would be willing to place themselves in a situation which they cannot occupy without danger of annihilation or embarrassment. The only consideration applies to the safety of the public funds, if deposited in those institutions. And when it is seen that the directors of many of them are not only willing to pledge the character and capital of the corporations in giving success to this measure, but also their own property and reputation, we cannot doubt that they, at least, believe the public deposites would be safe in their management. The President thinks that these facts and circumstances afford as strong a guarantee as can be had in human affairs, for the safety of the public funds, and the practicability of a new system of collection and disbursement through the agency of the state banks.

From all these considerations the President thinks that the state banks ought immediately to be employed in the collection and disbursement of the public revenue, and the funds now in the bank of the United States drawn out with all convenient despatch. . . .

. . . . . .

The President again repeats that he begs his cabinet to consider the proposed measure as his own, in the

support of which he shall require no one of them to make a sacrifice of opinion or principle. Its responsibility has been assumed, after the most mature deliberation and reflection, as necessary to preserve the morals of the people, the freedom of the press and the purity of the elective franchise, without which all will unite in saying that the blood and treasure expended by our forefathers in the establishment of our happy system of government will have been vain and fruitless. Under these convictions, he feels that a measure so important to the American people cannot be commenced too soon; and he therefore names the first day of October next, as a period proper for the change of the deposites, or sooner, provided the necessary arrangements with the state banks can be made.

Constitution of the American Anti-Slavery Society, 1833

This organization was an outgrowth of the New York City Anti-Slavery Society, and was formed at a convention in Philadelphia, December 4, 1833, at which both a constitution and a declaration of sentiments (the latter by William Lloyd Garrison) were adopted. Extracts from text in "Platform of the American Anti-Slavery Society and Its Auxiliaries." New York: The Society, 1860, pp. 3–4. (See page 76.)

Whereas the Most High God "hath made of one blood all nations of men to dwell on all the face of the earth," and hath commanded them to love their neighbors as themselves; and whereas, our National Existence is based upon this principle, as recognized in the Declaration of Independence, "that all mankind are created equal, and that they are endowed by their Creator with certain inalienable rights, among which are life, liberty, and the pursuit of happiness"; and whereas, after the lapse of nearly sixty years, since the faith and honor of the American people were pledged to this avowal, before Almighty God and the World, nearly one-sixth part of the nation are held in bondage by their fellow-citizens; and whereas, Slavery is contrary to the principles of natural justice, of our republican form of government, and of the Christian religion, and is destructive of the prosperity of the country, while it is endangering the peace, union, and liberties of the States; and whereas

BENJAMIN LUNDY

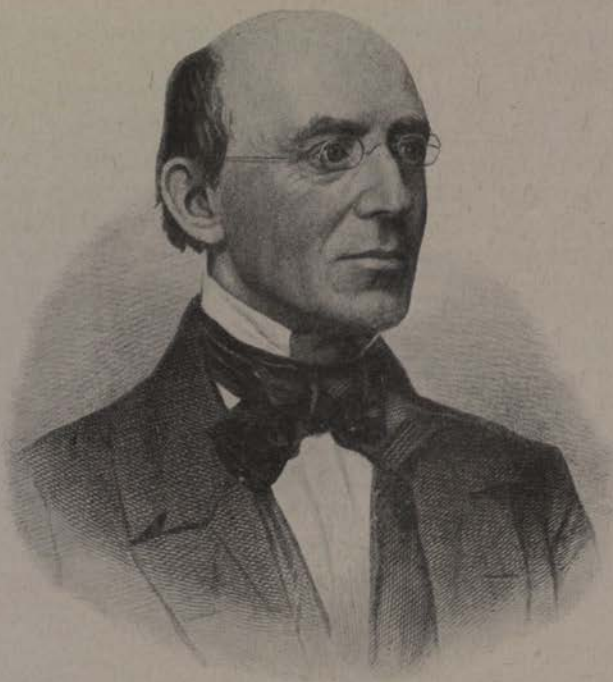
(Said to have been the first to make anti-slavery addresses. From 1815 until his death in 1839 he continued to speak and to publish journals and pamphlets against slavery)

we believe it the duty and interest of the masters immediately to emancipate their slaves, and that no scheme of expatriation, either voluntary or by compulsion, can remove this great and increasing evil; and whereas, we believe that it is practicable, by appeals to the consciences, hearts, and interests of the people, to awaken a public sentiment throughout the nation that will be opposed to the continuance of Slavery in any part of the Republic, and by effecting the speedy abolition of Slavery, prevent a general convulsion; and whereas, we believe we owe it to the oppressed, to our fellow-citizens who hold slaves, to our whole country, to posterity, and to God, to do all that is lawfully in our power to bring about the extinction of Slavery, we do hereby agree, with a prayerful reliance on the Divine aid, to form ourselves into a society, to be governed by the following Constitution:—

ARTICLE I.—This Society shall be called the AMERICAN ANTI-SLAVERY SOCIETY.

ARTICLE II.—The objects of this Society are the entire abolition of Slavery in the United States. While it admits that each State, in which Slavery exists, has, by the Constitution of the United States, the exclusive right to *legislate* in regard to its abolition in said State, it shall aim to convince all our fellow-citizens, by arguments addressed to their understandings and consciences, that Slaveholding is a heinous crime in the sight of God, and that the duty, safety, and best interests of all concerned, require its *immediate abandonment*, without expatriation. The Society will also endeavor, in a constitutional way, to influence Congress to put an end to the domestic Slave trade, and to abolish Slavery in all those portions of our common country which come under its control, especially in the District of Columbia,—and likewise to prevent the extension of it to any State that may be hereafter admitted to the Union.

ARTICLE III.—This Society shall aim to elevate the



Wm. Lloyd Garrison.

(Founder of the *Liberator* at Boston in 1831)

character and condition of the people of color, by encouraging their intellectual, moral, and religious improvement, and by removing public prejudice, that thus they may, according to their intellectual and moral worth, share an equality with the whites, of civil and religious privileges; but this Society will never, in any way, countenance the oppressed in vindicating their rights by resorting to physical force.

ARTICLE IV.—Any person who consents to the principles of this Constitution, who contributes to the funds of this Society, and is not a Slaveholder, may be a member of this Society, and shall be entitled to vote at the meetings.

[The remaining six articles are purely formal.]

John Quincy Adams on the Right of Petition and Freedom of Speech, 1838

The questions of Texas, strict construction of the constitution, and slave-holding had become so important by 1838 that Congress gave much attention to the problems. The most important features of the discussion were best expressed by ex-President John Quincy Adams, who was serving as a member of the House of Representatives from Massachusetts. The speech was primarily upon the right of petition, and the freedom of speech and debate, and extended over many days, interrupted by other business, from June 16 to July 7, 1838. The importance of the speech caused several large issues to be circulated in pamphlet form. These included also the interruptions of other members of the House, and copies of various petitions that had been presented to the House. The following selections of the most significant portions of the speech are reprinted from the pamphlet issued by Gales & Seaton of Washington in 1838. (See page 78.)

The report of the Committee on Foreign Affairs on the Texas subject, with amendments proposed thereto by Mr. Thompson and Mr. Adams, again coming up for consideration—

Mr. Adams rose and said: The proposition moved by my colleague [Mr. Cushing] is to recommit the resolution reported by the Committee on Foreign Affairs, with

certain instructions. I shall be entirely satisfied if the decision of the House shall be in favor of that proposition. My introduction of an amendment to the amendment now pending is only in consequence of the gentleman from South Carolina's having moved instructions to the committee to quite a different end from that sought by my colleague. I do not wish, in the present stage of the debate, to introduce the general question of the annexation of Texas to the Union. I particularly desire the House to so understand me. The proposition of my colleague is this:

> That the report and accompanying papers be recommitted to the same committee, with instructions to make report thereon in full as to the merits of the questions presented by the resolutions of the Legislatures of the several States of Tennessee, Alabama, Michigan, Ohio, and Massachusetts, and of the various petitions before the House on the subject of Texas.

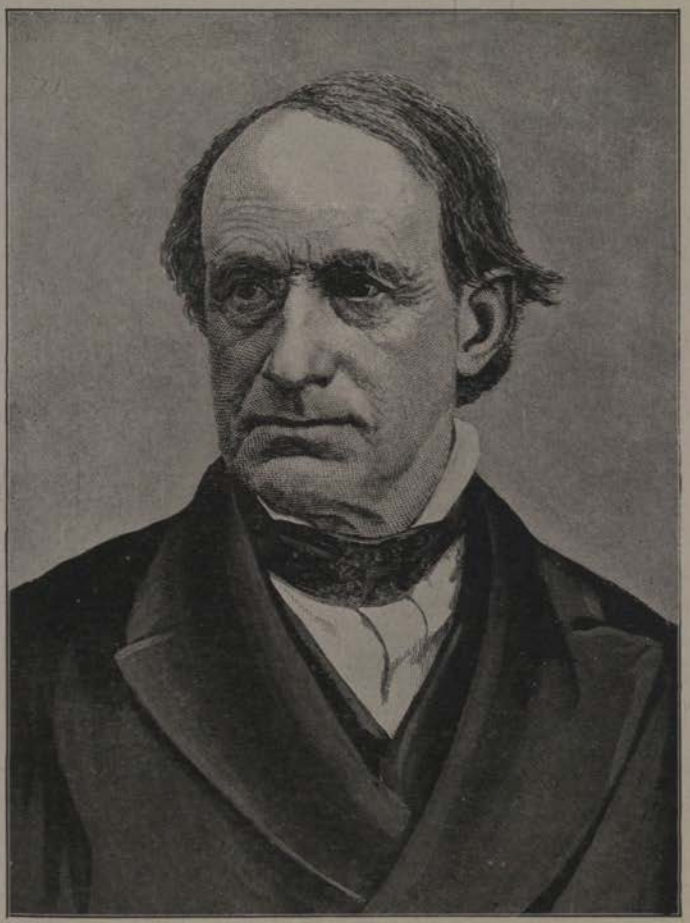
His desire is, that the subject be recommitted, in order to have a deliberate report on the merits of the several resolutions of State Legislatures, and of the numerous private memorials, petitions, and remonstrances which had, at different periods of the session, been referred to the committee. That also is my desire. The resolution he offered does not involve the general question: it seeks only the recommitment of the subject, and of the various documents relating thereto, which have been sent to that committee, but which the committee have not taken into consideration.

I take it for granted, when the general question comes up, (unless we are again to have the previous question called upon us, and all debate smothered, as happened when it was up before,) the question will be divided, and taken first on the recommitment, and then on the different proposition of instruction, in their order. I now state that my only object, at present, is to recommit the subject to get a report upon it. It was in this view

that I found it necessary to take issue with the gentleman from Virginia [Mr. Dromgoole] on the question *of the rights of this House, of the rights of members of this House, and of the rights and duties of the committees of this House.*

When the subject first came up, I rose in my place and inquired of the Speaker, not of the gentleman from Virginia, whether the committee had given as much as five minutes' consideration to the several resolutions of the Legislatures of sovereign States of this Union, and the very numerous memorials and petitions of individual citizens which had been, by order of this House, referred to their consideration? When I put that question to the Chair, the gentleman from Virginia rose, and denied my right to do so, and declared that he would not be catechised by me. I said, at the time, that the reluctance of the committee to answer that question was, of itself, sufficient for me, and that I trusted it would be sufficient for this House and for the American People. It was a concession that the committee never had taken these papers into consideration at all. That, I trust, will be the deliberate conviction of the People of the United States.

But this inference is not enough. The gentleman from Virginia assumed a general principle as to the rights of this House, the rights of members of this House, and the rights and duties of committees of this House. My question was not personal to the gentleman from Virginia. I did not ask what consideration *he* had given to these documents; I asked whether the *committee* had considered the memorials of the thousands and hundreds of thousands of American citizens, and the solemn resolutions of the Legislatures of not a few of the States of this Union, which had been sent to them that they might be considered. The only answer is that of an individual, that "*he* will not be catechised." This is not the answer to which I was entitled; and I demand



CALEB CUSHING

(He was a colleague of J. Q. Adams in Congress, of which he was a member from 1835–43. From a photograph by Gardner, Washington, D. C.)

an answer yet. Until I get it, my inference will be that those documents never were considered by the committee. . . .

Sir, the time has been when I despaired to speak to this House on a great principle, when I despaired to speak to the People of this country on a great principle. I will not say that the time has passed when I despair to appeal to this House on a great national principle. I remember the report of the Committee of Elections in the Mississippi case. I remember the report of the Duelling Committee. I do not know but that it is desperate to make an appeal to this House when party crosses its path, but I do not despair to appeal to the People. To them I call to mark the principles assumed in this House by members of one of the most important committees of the House—a committee to whom the destiny of this nation is committed in a greater degree than to any other. I call them to note what is now passing here. The resolutions of the Legislatures of six or seven States of this Union, standing on the principles they respectively maintain, together with memorials, and petitions, and remonstrances, from thousands and hundreds of thousands of American citizens, have been referred to that committee to consider and report thereon. When a question is put, a member of that committee rises in his place and denies the right of the House, or of any member, to ask whether the committee ever did consider those resolutions and memorials. And another member of that same committee answers that he is willing to report on these papers without looking into any one of them. Now, I beg leave to say, in the face of the country, that I denounce both as utterly incorrect, and I hope the People of the United States will do themselves justice in this case, as the People of Mississippi have nobly done themselves justice in regard to another report to this House. Sir, we are in a process in which I hope we shall persevere

until such principles shall be forever swept away. Would to God they could be swept from the records of this House, as they will be from the practice of all future Congresses. I assert, as a great general principle, that when resolutions from the Legislatures of States, and the petitions of a vast multitude of our fellow-citizens on a subject of deep and vital importance to the country, are referred to a committee of this House, if that committee make up an opinion without looking into such resolutions and memorials, the committee betray their duty to their constituents and to this House. I give this out to the nation. I ask this nation to reflect on the proceedings of the committee and of the House on such principles. When the meanest petition of the lowest and poorest individual in the country (I will not say slave) is presented in this House and referred, I hold it the duty of the committee, to the House, to the country, and to the petitioners, to look into the petition before they make up their opinion. Here is a broad principle; if I am wrong, let the country put me down. It is affirmed that the report of a committee is to be made without even looking into the resolutions of Legislatures and the petitions of citizens referred to that committee for consideration. There I am willing the question shall rest. . . .

I have said, and I repeat, that I wish every member of the committee to understand that it is not in reference to his own individual opinion or conduct that I have wished to put my question. His opinions I am willing to hear in this House, from himself, as he chooses to express them. What I want to hear is, the opinion of the committee, and it was on that principle I desired the recommitment. I wish the papers recommitted, that the committee may be required by this House to do their duty, as they now avow they did not, and deny the right of the House to call upon them for its performance.

There is one point in this matter of more importance than any other. The assumption of the gentleman from Virginia, and the gentleman from South Carolina, and, as far as I understand him, of the chairman of the committee, forms a part of that system of contempt for the right of petition to which, I am sorry to say, this House has given sanction. I say that this is part of that system. I have always maintained that when the petitions of the People of the United States, and, still more in point of importance, though not in point of principle, resolutions of Legislatures, on questions of the deepest importance, whether the opinions which they express be on the one side or on the other of those questions, are presented to this House, it is the duty of this House to consider them, either immediately or through its appropriate committees; and I insist that when such memorials are referred to a committee it is the duty of the committee to consider them before reporting in regard to them, and to report upon and after due consideration of their contents, and to form a judgment from their merits. This I take to be the true scope and meaning of the Constitution, when it declares that the right of petition shall not be abridged. And if it is our duty to hear and to consider the petition of a single individual, it is still more our duty to hear and consider the resolutions of a State Legislature.

But this committee have gone further in trampling upon the right of petition, of which the House has given an example. The House has not gone the length of refusing to receive petitions, but with a distinction, which I am ashamed to mention in the face of this nation, they have resolved, with great solemnity, to receive memorials and then not to consider them. That principle has been extended by this committee. Sir, if a Yankee was ever charged with manufacturing wooden nutmegs, that was the man to advance such a principle. [A laugh.] Is this principle the wooden nutmeg of this

House? It is that, or it is nothing. I say this for the benefit of such members of this House as are willing to take shelter from the indignation of their constituents under such a distinction.

The Chair here interposed, and reminded the gentleman from Massachusetts that it was not in order to speak disrespectfully of the action of the House.

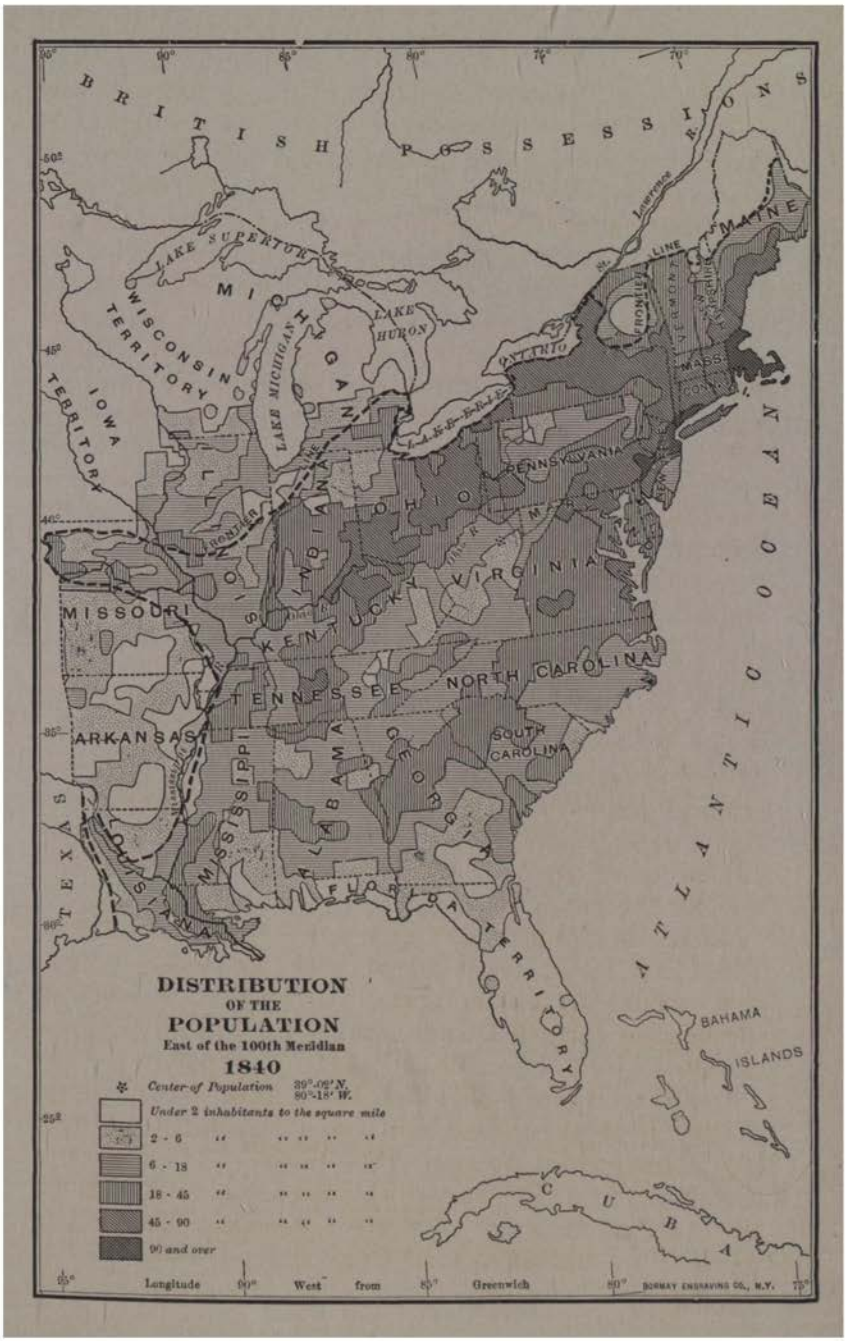
Mr. Adams. I am much obliged to the Speaker for not having stopped me before. [A laugh.] I assume it as a principle that it is the duty of this House to receive the petitions of all the citizens of the United States, if couched in respectful language; and I further assert it as a principle, that it is our duty not only to receive, but to consider them; and I say that if we receive and refuse to consider, we shelter ourselves under a distinction unworthy of this House—a distinction that would be unworthy of any man in private life, and much more of the highest legislative body in the country. . . .

[The various kinds of petition that had been ignored were then discussed by Mr. Adams. On July 7th, having arrived at the question of the petitions relative to Mexico and Texas, he concluded as follows:]

When the hour expired yesterday, I was adducing evidence to show that the conduct of the Executive Administration of this Government toward that of Mexico was marked by duplicity and hostility—by hostility to the extent of a deliberate design of plunging us into a war with that Power, for the purpose of dismembering her territories, and annexing a large portion of them to this Union. This projected war was avowed, openly, sixteen months ago, by the Executive, and was countenanced and supported by a report from the Committee on Foreign Affairs, but not by this House, at that time. The same hostility and the same duplicity have been continued to this day. I stated that, in consequence of the application by this Government for the

purchase of Texas, made through the gentleman now at the head of the Department of War—a gentleman of the highest respectability, but who is himself a citizen of one of the slaveholding States most interested in the perpetuation of the system of slavery—the Mexican Government became so dissatisfied with him, then our Minister there, that it had demanded his recall. In the annual message of the President, at the Congress of 1829–'30, it was stated that the recall had been made, and that a Chargé d'Affaires had been appointed to that legation in the place of the Minister thus recalled. I referred, among other things, to a very remarkable document, dated 25th August, 1829, drawn up by a gentleman, then Secretary of State, but who has since become the Chief Magistrate of the Union, in which the proposition for the purchase of Texas is renewed, and urged with extraordinary earnestness and very elaborate argument. But I neglected to notice the fact that this letter of instruction was prepared precisely at the time that a Spanish force from the island of Cuba was invading Mexico. I read from the letter a passage going to show that it was within the knowledge of this Government that Mexico was then in a distressed situation, and that it might be charged upon us that we took advantage of that state of things to press our application for the purchase of a part of her territory; but disavowing, in the strongest terms, every thing like such a design. I entreated members of the House to read that document, as containing demonstrative proof of the duplicity which I have charged upon that Administration.

It did so happen that this letter of instructions did not arrive in Mexico till after the Mexican Government had peremptorily demanded the recall of Mr. Poinsett, and after the total failure of the Spanish invasion, which two events occurred at nearly the same time. The messenger who took out the letter was appointed Chargé


BRITISH POSSESSIONS
LAKE SUPERIOR
MICHIGAN
WISCONSIN TERRITORY
LAKE MICHIGAN
LAKE HURON
IOWA TERRITORY
INDIANA
OHIO
PENNSYLVANIA
MAINE
MASS.
MISSOURI
KENTUCKY
VIRGINIA
TENNESSEE
NORTH CAROLINA
ARKANSAS
SOUTH CAROLINA
MISSISSIPPI
ALABAMA
GEORGIA
LOUISIANA
FLORIDA TERRITORY
TEXAS
ATLANTIC OCEAN
BAHAMA ISLANDS
CUBA
DISTRIBUTION
OF THE
POPULATION
East of the 100th Meridian
1840
Center of Population 39°-02' N. 80°-18' W.
Under 2 inhabitants to the square mile
2 - 6
6 - 18
18 - 45
45 - 90
90 and over
Longitude West from Greenwich
BORMAY ENGRAVING CO., N.Y.

d'Affaires, and the letter, being transferred to him in his new character, became the standing instruction of the United States diplomatic functionaries near that Government. In that letter, among other arguments in favor of the cession of Texas, is stated the fact that large numbers of the citizens of the United States were rushing into that territory, obtaining grants of land, with the purpose of exciting an insurrection of the province against the Mexican Government, and that this design had been cherished for years. This fact was adduced, I say, in a letter bearing date the 25th of August, 1829, and urged as one of many arguments in favor of the cession. Now, it is a matter of notoriety that at that time there were large numbers of American citizens, particularly from the Western States, engaged in that laudable occupation. I believe that you, sir, as a citizen of Tennessee, may be as well acquainted with what I am now stating as any other individual in this House, or, perhaps, in this country; and I may, without hazard of contradiction, state, that in the State of Tennessee there existed great numbers of such speculators; and, further, that they had great influence with the then head of the Executive Government. I believe that this despatch may, in a great degree, be referred to the influence of those speculators, whether persons remaining in the United States and sending others out, or whether themselves going as adventurers into Texas.

I must add that this state of things was well understood in Mexico at that time. That it was, is evident from the report laid before the Mexican Congress in 1829, by the then Secretary of State, an extract of which I will now read to the House:

The North Americans commence by introducing themselves into the territory which they covet, on pretence of commercial negotiations, or of the establishment of colonies, with or without the assent of the Government to which it belongs. These colonies grow, multiply, become the predominant part in the population; and as

soon as a support is found in this manner, they begin to set up rights which it is impossible to sustain in a serious discussion, and to bring forward ridiculous pretensions, founded upon historical facts which are admitted by nobody, such as La Salle's Voyages, now known to be a falsehood, but which serve as a support, at this time, for their claim to Texas. These extravagant opinions are for the first time presented to the world by unknown writers; and the labor which is employed by others in offering proofs and reasonings, is spent by them in repetitions and multiplied allegations, for the purpose of drawing the attention of their fellow-citizens, not upon the justice of the proposition, but upon the advantages and interests to be obtained or subverted by their admission.

Their machinations in the country they wish to acquire are then brought to light by the appearance of explorers, some of whom settle on the soil, alleging that their presence does not affect the question of the right of sovereignty or possession of the land. These pioneers excite by degrees movements which disturb the political state of the country in dispute; and then follow discontents and dissatisfaction calculated to fatigue the patience of the legitimate owner, and to diminish the usefulness of the administration and of the exercise of authority. When things have come to pass, *which is precisely the present state of things in Texas*, the diplomatic management commences. The inquietude they have excited in the territory in dispute, the interests of the colonists therein established, the insurrection of adventurers and savages instigated by them, and the pertinacity with which the opinion is set up as to their right of possession, *become the subject of notes, full of expression of justice and moderation*, until, with the aid of other incidents which are never wanting in the course of diplomatic relations, the desired end is attained of concluding an arrangement onerous for one party, as it is advantageous to the other.

It has been said further, that when the United States of the North have succeeded in giving the predominance to the colonists introduced into the countries they had in view, they set up rights, and bring forward pretensions founded upon disputed historical facts, *availing themselves generally, for the purpose, of some critical conjuncture to which they suppose that the attention of Government must be directed.* This policy, which has produced good results to them, they have commenced carrying into effect with Texas. The public prints in those States, including those which are more immediately under the influence of their Government, are engaged in discussing the right they imagine they have to the country as far as the Rio Bravo. Handbills are printed on the same subject, and thrown into general circulation, whose object is to persuade and convince

JOHN QUINCY ADAMS

(From an engraving after a painting by A. B. Durand)

the People of the utility and expediency of the meditated project. Some of them have said that Providence had marked out the Rio Bravo as the natural boundary of those States, which has induced an English writer to reproach them with an attempt to make Providence the author of their usurpations; but what is most remarkable is, that they have commenced that discussion precisely at the same time they saw us engaged in repelling the Spanish invasion, believing that our attention would, for a long time, be thereby withdrawn from other things.

There is an extract to be compared with the letter of instructions from Mr. Van Buren of the 25th August, 1829, which I have referred to, and with the offer made at the same time to purchase the province of Texas. This is a commentary upon the other; and the two, taken together, furnish full demonstration of the truth of the charge that there has been on our part, toward the Mexican Government, a series of duplicity and hostility, accompanied by a secret design to wrest from her possession a portion of her territory. I entreat you gentlemen to compare these documents; to examine them; and to see the gross duplicity which is even avowed in one paragraph of this paper, and which, though less openly, pervades the whole of it.

I shall now present to this House, and to the country, a document which is not of a public nature. But, before doing so, I must refer to a letter from Dr. Mayo, a confidential officer of the Administration, to President Jackson, dated the 2d of December, 1830, one year after the date of the instructions I have read to the House. It begins thus:

To General Andrew Jackson, President of the United States:

The enclosed is the scheme of a secret alphabet, in the handwriting of ——— ———, which came into my possession in the manner hereinafter mentioned, and which I confide to your excellency, together with the following statement of facts, to be used in any way your excellency may deem proper. Written out, the alphabet stands thus: [Here follows an engraving explaining the cipher alphabet referred to.]

Some time in the month of February last, as nearly as I can recollect, certainly very shortly after Gen. Samuel Houston arrived in this city, I was introduced to him at Brown's Hotel, where both of us had taken lodgings. Our rooms were on the same floor, and convenient for social intercourse; which, from the General's courteous manners, and my own desire to be enabled to do him justice, in my own estimation, relative to his abandoning his family and abdicating the Government of Tennessee, readily became frequent and intimate. Upon what he, perhaps, deemed a suitable maturity of acquaintance, he spoke freely and minutely of his past history. He spoke of his separation from Mrs. H. with great sensibility, and deprecated the injurious opinion it had made upon a considerable portion of the public mind, disparaging the *sanity* of his intellect, or rectitude of his moral character. Judging favorably, no doubt, of the progress of our acquaintance, and the prepossessing impression it had made on me in relation to the salubrity and general competency of his intelligence, with rectitude of impulses, he complained of the inadequate defence volunteered in his behalf by the editor of the Richmond Enquirer, and solicited me to write a communication for the columns of that paper, and use my friendly interest with the editor for their publication. I promised to make a sketch of something anonymous respecting my favorable impressions and show it to him. But before I had time or full pliancy of mind to digest any thoughts upon the subject, our frequent interviews, and his confidence in my serving his ends, doubtless, induced him to avow to me more particularly the ground of his solicitude to have his character and mental competency elevated before the public. He descanted on the immense field for enterprise in the Indian settlement beyond the Mississippi, and through that, as a stepping-stone, in Texas; and recommended me to direct my destinies that way. Without making any promises or commitments, I did not discourage, at this stage, his inflated schemes for my advancement, as I had a curiosity, now on tip-toe, to hear his romantic projections, for his manner and his enthusiasm were at least entertaining. Accordingly he went on to develop much of a systematic enterprise, but not half what I have since learnt from another source; perhaps because he discovered that my interest in the subject did not keep pace with the anticipations he had formed for the progress of his disclosures. I learnt from him these facts and speculations, viz:

That he was organizing an expedition against Texas; to afford a cloak to which he had assumed the Indian costume, habits, and associations, by settling among them, in the neighborhood of Texas. That nothing was more easy to accomplish than the conquest and possession of that extensive and fertile country, by the co-operation

of the Indians in the Arkansas Territory, and recruits among the citizens of the United States. That, in his view, it would hardly be necessary to strike a blow to wrest Texas from Mexico. That it was ample for the establishment and maintenance of a separate and independent Government from the United States. That the expedition would be got ready with all possible despatch; that the demonstration would and *must* be made in about twelve months from *that time*. That the event of success opened the most unbounded prospects of wealth to those who would embark in it, and that it was with a view to facilitate his recruits, he wished to elevate himself in the public confidence by the aid of my communications to the Richmond Enquirer. That I should have a surgeoncy in the expedition, and recommended me in the mean time to remove along with him, and practise physic among the Indians in the territory.

There is much more of the same general effect; but as these documents are all contained in a printed pamphlet which is accessible to all, and has been some time in print, I forbear to read further. But the paper I am now about to read is not in print. It is a letter from the late President of the United States to William Fulton, Esq., then Secretary of the Territory of Arkansas, and the endorsement upon it shows that a similar letter was addressed to the United States District Attorney in Florida. The paper I hold in my hand is a copy. I have seen the original, in the handwriting of Gen. Jackson; it is now in this city, and can be seen by any gentleman who has a curiosity to examine it.

(Strictly confidential)

WASHINGTON, *December 10, 1830.*

DEAR SIR: It has been stated to me that an extensive expedition against Texas is organizing in the United States, with a view to the establishment of an independent Government in that province, and that Gen. Houston is to be at the head of it. From all the circumstances communicated to me upon this subject, and which have fallen under my observation, I am induced to believe and hope (notwithstanding the circumstantial manner in which it is related to me) that the information I have received is erroneous, and it is unnecessary that I should add my sincere wish that it may be so.

No movements have been made, nor have any facts been established, which would require or would justify the adoption of official proceedings against individuals implicated; yet so strong is the detestation of the criminal steps alluded to, and such are my apprehensions of the extent to which the peace and honor of the country might be compromitted by it, as to make me anxious to do everything short of it which may serve to elicit the truth, and to furnish me with the necessary facts (if they exist) to lay the foundation of further measures.

It is said that enlistments have been made for the enterprise in various parts of the Union; that the confederates are to repair, as travellers, to different points of the Mississippi, where they have already chartered steamboats in which to embark; that the point of rendezvous is to be in the Arkansas Territory, and that the cooperation of the Indians is looked to by those engaged in the contemplated expedition.

I know of no one whose situation will better enable him to watch the course of things, and keep me truly and constantly advised of any movements which may serve to justify the suspicions which are entertained, than yourself, and I know I can rely with confidence on your fidelity and activity. To secure your exertions in that regard, is the object of this letter, and it is because I wish it to be considered rather as a private than an official act, that it is addressed to you instead of the Governor, (who is understood to be now in Kentucky.)

The course to be pursued to effect the object in view must of necessity be left to your discretion, enjoining only that the utmost secrecy be observed on your part. If, in the performance of the duty required of you, any expenses are necessarily incurred by you, I will see they are refunded.

I am, respectfully yours,

ANDREW JACKSON.

WM. FULTON, ESQ.

This was written in December, 1830. I adduce it as demonstrative proof that the President of the United States was then perfectly and fully informed of a design on the part of our citizens to produce an insurrection in Texas for the purpose of separating that Territory from the Republic of Mexico, and that the President considered the enterprise as highly criminal, and such as called upon him to arrest its progress, and prevent its accomplishment.

It will be recollected that I called some time since upon the Department of State to know if any copy of such a letter was on the files of that Department, and the reply sent to this House was, that there was no document there. I infer from that fact that this letter, though written, never was sent. And why not sent? I believe that it was the will and intention of the President at that time, to make the interposition contained in this letter. What inference must be drawn from the fact of its never having been sent, if such, indeed, was the fact? It is not in my power to explain the whole matter. The letter, however, exists. I have seen it: and I aver that the whole letter from beginning to end, together with its endorsement, is in the handwriting of General Jackson. The original letter of Dr. Mayo to the President, on which this was written, I have also seen: and any member of the House who feels curiosity on the subject, may have an opportunity of examining both letters. Now, how is this to be explained? That the letters were written is beyond dispute. That this is endorsed "strictly confidential," is equally indisputable; and the letter itself discloses, on the part of the President, his knowledge of a conspiracy which he considered highly criminal, and of which he expresses his "detestation." Is it not demonstrative proof of that duplicity which pervaded every part of the course of the late Administration in regard to Mexico, that there does exist such an autograph letter of the late President, and that, so far as appears, it was never sent? If it was sent, the persons are living who can prove it. The gentleman to whom the letter was written is, I believe, now in this city. The Secretary of the Territory of Florida is yet living. If both letters were sent, the fact may be proved. And if they were, then, surely, it is very incumbent on those who received them to prove what they did in regard to this foul conspiracy. . . .

I have produced and read this letter in order to show

that in December, 1830, the President of these United States was duly informed of the existence of a conspiracy for invading Texas, producing a revolution in that province, and ultimately separating it from the Republic of Mexico, of which it constituted an integral part, and that the whole design was conducted under the command of the individual who is now President of Texas. . . .

Tedious as my argument may have appeared to many, instead of amplifying it, I have, on the contrary, been obliged to abridge three fourths of what I desired to say, and of what ought to be said on the various topics touched upon. But I was aware that sufficient time could not be allowed me at the present session. I do hope, however, that we shall never more hear of the gag, and that at the next session, ample time and opportunity will be given for every gentleman to express his opinions on all the topics which shall be reported to us from the Committee on Foreign Affairs. I have adduced these documents simply as proofs of the existence of both duplicity and hostility on the part of this Government toward Mexico, and that from the commencement of the last Administration. We have come down as far as the close of the year 1830. I have read to the House a report of the Mexican Secretary of State, made to the Mexican Legislature during the very time in which General Houston is said to have been engaged in that conspiracy to which the President's letter alludes; and in which report the conspiracy is shadowed forth in all the particulars of its progressive development. All this time, be it remembered, our Chargé near the Mexican Government was charged in a letter of instructions to propose a cession of Texas to the United States; to urge that proposition with all his influence, and to back it by an offer of five millions of dollars. And at the same time he was charged with the negotiation of a treaty of commerce, and for the

purpose of carrying into effect the boundary line agreed upon in our former treaty with Spain. The House has seen that the Legislature of Mexico, having, in consequence of these proceedings, its suspicions very much roused in regard to the views and purposes of this Government, refused to sign the treaty of commerce unless an article should be introduced into it recognizing the line marked out in our Spanish treaty as the boundary line between Mexico and the United States. Such an article was accordingly introduced, and the commercial treaty was concluded by Mr. Poinsett, in 1828. But, owing to those delays which frequently happen in matters of this description, that treaty was not ratified in time. Whereupon, Mr. Butler was charged in his instructions to reconclude the same treaty, which he did in 1831 and '32, and in it the same article was inserted, establishing the boundary line as agreed upon in 1819.

Webster-Ashburton Treaty, 1842

This treaty was for the purpose of settling the question of the northeastern boundary of the United States. The limitation of territory had been partially declared in the treaty of 1783, and subsequently the question had been the subject of much diplomatic negotiation, as a considerable area of territory remained in dispute. Text from "Revised Statutes Relating to District of Columbia . . . 1873–'74 . . . together with the public treaties." Washington: Government Printing Office, 1875, pp. 315–320. (See page 115.)

Whereas certain portions of the line of boundary between the United States of America and the British dominions in North America, described in the second article of the treaty of peace of 1783, have not yet been ascertained and determined, notwithstanding the repeated attempts which have been heretofore made for that purpose; and whereas it is now thought to be for the interest of both parties, that, avoiding further discussion of their respective rights, arising in this respect under the said treaty, they should agree on a conventional line in said portions of the said boundary, such as may be convenient to both parties, with such equivalents and compensations as are deemed just and reasonable; and whereas, by the treaty concluded at Ghent on the 24th day of December, 1814, between the United States and His Britannic Majesty, an article was agreed

to and inserted of the following tenor, viz.: "Art. 10. Whereas the traffic in slaves is irreconcilable with the principles of humanity and justice; and whereas both His Majesty and the United States are desirous of continuing their efforts to promote its entire abolition, it is hereby agreed that both the contracting parties shall use their best endeavors to accomplish so desirable an object;" and whereas, notwithstanding the laws which have at various times been passed by the two Governments, and the efforts made to suppress it, that criminal traffic is still prosecuted and carried on; and whereas the United States of America and Her Majesty the Queen of the United Kingdom of Great Britain and Ireland are determined that, so far as may be in their power, it shall be effectually abolished; and whereas it is found expedient, for the better administration of justice and the prevention of crime within the territories and jurisdiction of the two parties respectively, that persons committing the crimes hereinafter enumerated, and being fugitives from justice, should, under certain circumstances, be reciprocally delivered up: The United States of America and Her Britannic Majesty, having resolved to treat on these several subjects, have for that purpose appointed their respective Plenipotentiaries to negotiate and conclude a treaty, that is to say:

The President of the United States has, on his part, furnished with full powers Daniel Webster, Secretary of State of the United States, and Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, has, on her part, appointed the Right Honorable Alexander Lord Ashburton, a peer of the said United Kingdom, a member of Her Majesty's Most Honorable Privy Council, and Her Majesty's Minister Plenipotentiary on a special mission to the United States;

Who, after a reciprocal communication of their re-

ALEXANDER, LORD ASHBURTON

(From a painting by Sir T. Laurence after the engraving by A. R. Artlett)

spective full powers, have agreed to and signed the following articles:

ARTICLE I.

It is hereby agreed and declared that the line of boundary shall be as follows: Beginning at the monument at the source of the river St. Croix as designated and agreed to by the Commissioners under the fifth article of the treaty of 1794, between the Governments of the United States and Great Britain; thence, north, following the exploring line run and marked by the surveyors of the two Governments in the years 1817 and 1818, under the fifth article of the treaty of Ghent, to its intersection with the river St. John, and to the middle of the channel thereof; thence, up the middle of the main channel of the said river St. John, to the mouth of the river St. Francis; thence, up the middle of the channel of the said river St. Francis, and of the lakes through which it flows, to the outlet of the Lake Pohenagamook; thence, southwesterly, in a straight line, to a point on the northwest branch of the river St. John, which point shall be ten miles distant from the main branch of the St. John, in a straight line, and in the nearest direction; but if the said point shall be found to be less than seven miles from the nearest point of the summit or crest of the highlands that divide those rivers which empty themselves into the river Saint Lawrence from those which fall into the river Saint John, then the said point shall be made to recede down the said northwest branch of the river St. John, to a point seven miles in a straight line, from the said summit or crest, thence, in a straight line, in a course about south, eight degrees west, to the point where the parallel of latitude of 46° 25′ north intersects the southwest branch of the St. John's; thence, southerly, by the said branch, to the source thereof in the highlands at the Metjarmette portage; thence, down along the said highlands which

divide the waters which empty themselves into the river Saint Lawrence from those which fall into the Atlantic Ocean, to the head of Hall's Stream; thence, down the middle of said stream, till the line thus run intersects the old line of boundary surveyed and marked by Valentine and Collins, previously to the year 1774, as the 45th degree of north latitude, and which has been known and understood to be the line of actual division between the States of New York and Vermont on one side, and the British province of Canada on the other; and from said point of intersection, west, along the said dividing line, as heretofore known and understood, to the Iroquois or St. Lawrence River.

Article II.

It is moreover agreed, that from the place where the joint Commissioners terminated their labors under the sixth article of the treaty of Ghent, to wit, at a point in the Neebish Channel, near Muddy Lake, the line shall run into and along the ship-channel between Saint Joseph and St. Tammany Islands, to the division of the channel at or near the head of St. Joseph's Island; thence, turning eastwardly and northwardly around the lower end of St. George's or Sugar Island, and following the middle of the channel which divides St. George's from St. Joseph's Island; thence up the east Neebish Channel, nearest to St. George's Island, through the middle of Lake George; thence, west of Jonas' Island, into St. Mary's River, to a point in the middle of that river, about one mile above St. George's or Sugar Island, so as to appropriate and assign the said island to the United States; thence, adopting the line traced on the maps by the Commissioners, thro' the river St. Mary and Lake Superior, to a point north of Ile Royale, in said lake, one hundred yards to the north and east of Ile Chapeau, which last-mentioned island lies near the

northeastern point of Ile Royale, where the line marked by the Commissioners terminates; and from the last-mentioned point, southwesterly, through the middle of the sound between Ile Royale and the northwestern main land, to the mouth of Pigeon River, and up the said river, to and through the north and south Fowl Lakes, to the lakes of the height of land between Lake Superior and the Lake of the Woods; thence, along the water communication to Lake Saisaginaga, and through that lake; thence, to and through Cypress Lake, Lac du Bois Blanc, Lac la Croix, Little Vermilion Lake, and Lake Namecan and through the several smaller lakes, straits, or streams, connecting the lakes here mentioned, to that point in Lac la Pluie, or Rainy Lake, at the Chaudière Falls, from which the Commissioners traced the line to the most northwestern point of the Lake of the Woods; thence, along the said line, to the said most northwestern point, being in latitude 49° 23′ 55″ north, and in longitude 95° 14′ 38″ west from the observatory at Greenwich; thence, according to existing treaties, due south to its intersection with the 49th parallel of north latitude, and along that parallel to the Rocky Mountains. It being understood that all the water communications and all the usual portages along the line from Lake Superior to the Lake of the Woods, and also Grand Portage, from the shore of Lake Superior to the Pigeon River, as now actually used, shall be free and open to the use of the citizens and subjects of both countries.

Article III.

In order to promote the interests and encourage the industry of all the inhabitants of the countries watered by the river St. John and its tributaries, whether living within the State of Maine or the province of New Brunswick, it is agreed that, where, by the provisions of the

MARSHFIELD, THE RESIDENCE OF DANIEL WEBSTER
(Where he died October 24, 1852)

present treaty, the river St. John is declared to be the line of boundary, the navigation of the said river shall be free and open to both parties, and shall in no way be obstructed by either; that all the produce of the forest, in logs, lumber, timber, boards, staves, or shingles, or of agriculture, not being manufactured, grown on any of those parts of the State of Maine watered by the river St. John, or by its tributaries, of which fact reasonable evidence shall, if required, be produced, shall have free access into and through the said river and its said tributaries, having their source within the State of Maine, to and from the sea-port at the mouth of the said river St. John's, and to and round the falls of the said river, either by boats, rafts, or other conveyance; that when within the province of New Brunswick, the said produce shall be dealt with as if it were the produce of the said province; that, in like manner, the inhabitants of the territory of the upper St. John, determined by this treaty to belong to Her Britannic Majesty, shall have free access to and through the river, for their produce, in those parts where the said river runs wholly through the State of Maine: Provided, always, that this agreement shall give no right to either party to interfere with any regulations not inconsistent with the terms of this treaty which the governments, respectively, of Maine or of New Brunswick may make respecting the navigation of the said river, where both banks thereof shall belong to the same party.

Article IV.

All grants of land heretofore made by either party, within the limits of the territory which by this treaty falls within the dominions of the other party, shall be held valid, ratified, and confirmed to the persons in possession under such grants, to the same extent as if such territory had by this treaty fallen within the dominions

of the party by whom such grants were made; and all equitable possessory claims, arising from a possession and improvement of any lot or parcel of land by the person actually in possession, or by those under whom such person claims, for more than six years before the date of this treaty, shall, in like manner, be deemed valid, and be confirmed and quieted by a release to the person entitled thereto, of the title to such lot or parcel of land, so described as best to include the improvements made thereon; and in all other respects the two contracting parties agree to deal upon the most liberal principles of equity with the settlers actually dwelling upon the territory falling to them, respectively, which has heretofore been in dispute between them.

Article V.

Whereas in the course of the controversy respecting the disputed territory on the northeastern boundary, some moneys have been received by the authorities of Her Britannic Majesty's province of New Brunswick, with the intention of preventing depredations on the forests of the said territory, which moneys were to be carried to a fund called the "disputed territory fund," the proceeds whereof it was agreed should be hereafter paid over to the parties interested, in the proportions to be determined by a final settlement of boundaries, it is hereby agreed that a correct account of all receipts and payment on the said fund shall be delivered to the Government of the United States ithin six months after the ratification of this treaty; and the proportion of the amount due thereon to the States of Maine and Massachusetts, and any bonds or securities appertaining thereto shall be paid and delivered over to the Government of the United States; and the Government of the United States agrees to receive for the use of, and pay over to, the States of Maine and Massachusetts,

their respective portions of said fund, and further, to pay and satisfy said States, respectively, for all claims for expenses incurred by them in protecting the said heretofore disputed territory and making a survey thereof in 1838; the Government of the United States agreeing with the States of Maine and Massachusetts to pay them the further sum of three hundred thousand dollars, in equal moieties, on account of their assent to the line of boundary described in this treaty, and in consideration of the conditions and equivalents received therefor from the Government of Her Britannic Majesty.

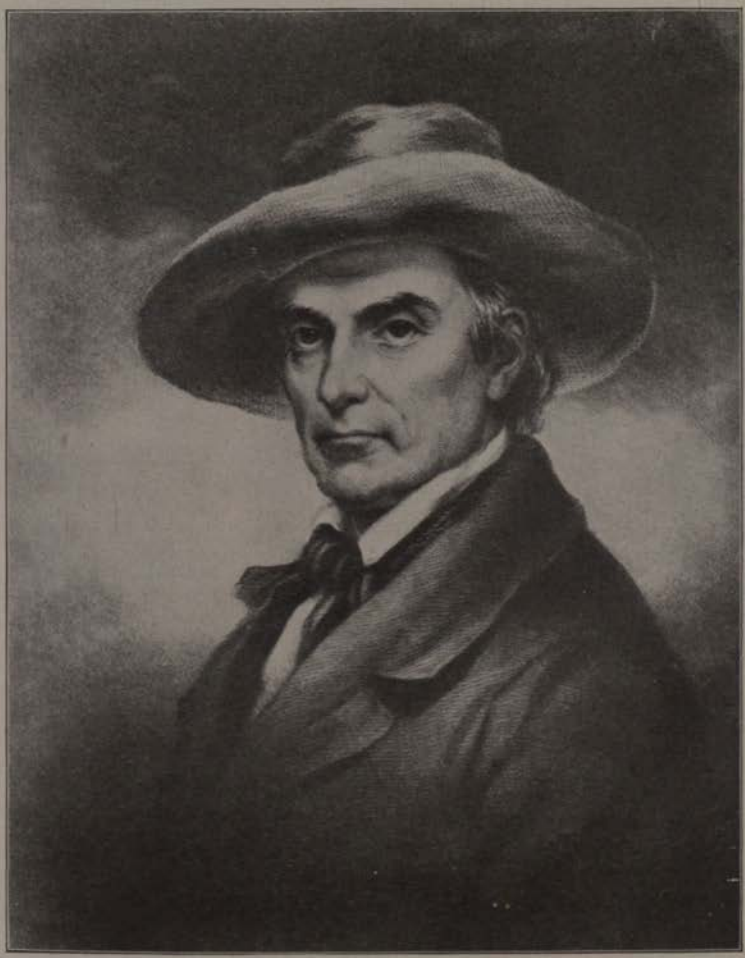
[Art. VI. provides for the appointment of two commissioners to mark the boundary between the St. Croix and the St. Lawrence.]

Article VII.

It is further agreed that the channels in the river St. Lawrence on both sides of the Long Sault Islands and of Barnhart Island, the channels in the river Detroit on both sides of the island Bois Blanc, and between that island and both the American and Canadian shores, and all the several channels and passages between the various islands lying near the junction of the river St. Clair with the lake of that name, shall be equally free and open to the ships, vessels, and boats of both parties.

Article VIII.

The parties mutually stipulate that each shall prepare, equip, and maintain in service on the coast of Africa a sufficient and adequate squadron or naval force of vessels of suitable numbers and descriptions, to carry in all not less than eighty guns, to enforce, separately and respectively, the laws, rights, and obligations of



Daniel Webster

DANIEL WEBSTER IN HIS LATER YEARS
(From an engraving by H. W. Smith after the painting by J. Ames)

each of the two countries for the suppression of the slave-trade, the said squadrons to be independent of each other, but the two Governments stipulating, nevertheless, to give such orders to the officers commanding their respective forces as shall enable the mmost effectually to act in concert and co-operation, upon mutual consultation, as exigencies may arise, for the attainment of the true object of this article, copies of all such orders to be communicated by each Government to the other, respectively.

Article IX.

Whereas, notwithstanding all efforts which may be made on the coast of Africa for suppressing the slave-trade, the facilities for carrying on that traffic and avoiding the vigilance of cruisers, by the fraudulent use of flags and other means, are so great, and the temptations for pursuing it, while a market can be found for slaves, so strong, as that the desired result may be long delayed unless all markets be shut against the purchase of African negroes, the parties to this treaty agree that they will unite in all becoming representations and remonstrances with any and all Powers within whose Dominions such markets are allowed to exist, and that they will urge upon all such Powers the propriety and duty of closing such markets effectually, at once and forever.

Article X.

It is agreed that the United States and Her Britannic Majesty shall, upon mutual requisitions by them, or their Ministers, officers, or authorities, respectively made, deliver up to justice all persons who, being charged with the crime of murder, or assault with intent to commit murder, or piracy, or arson, or robbery, or forgery, or the utterance of forged paper, committed

within the jurisdiction of either, shall seek an asylum or shall be found within the territories of the other: Provided, that this shall only be done upon such evidence of criminality as, according to the laws of the place where the fugitive or person so charged shall be found, would justify his apprehension and commitment for trial if the crime or offence had there been committed; and the respective judges and other magistrates of the two Governments shall have power, jurisdiction, and authority, upon complaint made under oath, to issue a warrant for the apprehension of the fugitive or person so charged, that he may be brought before such judges or other magistrates, respectively, to the end that the evidence of criminality may be heard and considered; and if, on such hearing, the evidence be deemed sufficient to sustain the charge, it shall be the duty of the examining judge or magistrate to certify the same to the proper executive authority, that a warrant may issue for the surrender of such fugitive. The expense of such apprehension and delivery shall be borne and defrayed by the party who makes the requisition and receives the fugitive.

Article XI.

The eighth article of this treaty shall be in force for five years from the date of the exchange of the ratifications, and afterwards until one or the other party shall signify a wish to terminate it. The tenth article shall continue in force until one or the other of the parties shall signify its wish to terminate it, and no longer.

Article XII.

The present treaty shall be duly ratified, and the mutual exchange of ratifications shall take place in London, within six months from the date hereof, or earlier if possible.

In faith whereof we, the respective Plenipotentiaries, have signed this treaty and have hereunto affixed our seals.

Done in duplicate at Washington, the ninth day of August, anno Domini one thousand eight hundred and forty-two.

The Annexation of Texas, 1845

The joint resolution of Congress for the annexation of Texas, which was approved on March 1, 1845, was the culmination of protracted efforts to that end. Texas had developed from an unorganized Mexican territory into an organized Mexican state. After declaring its independence of Mexico, Texas became a republic. The terms of the resolution for annexation to the United States were accepted by the Texan Congress on June 18th, and by a convention at Austin on July 4th. Text from "United States Statutes at Large," Vol. V., pp. 797–798. (See page 102.)

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That Congress doth consent that the territory properly included within, and rightfully belonging to the Republic of Texas, may be erected into a new State, to be called the State of Texas, with a republican form of government, to be adopted by the people of said republic, by deputies in convention assembled, with the consent of the existing government, in order that the same may be admitted as one of the States of this Union.

2. *And be it further resolved*, That the foregoing consent of Congress is given upon the following conditions, and with the following guarantees, to wit: *First*, Said State to be formed, subject to the adjustment by this government of all questions of boundary that may arise with other governments; and the constitution thereof,

STEPHEN FULLER AUSTIN, STYLED THE FOUNDER OF TEXAS, 1823

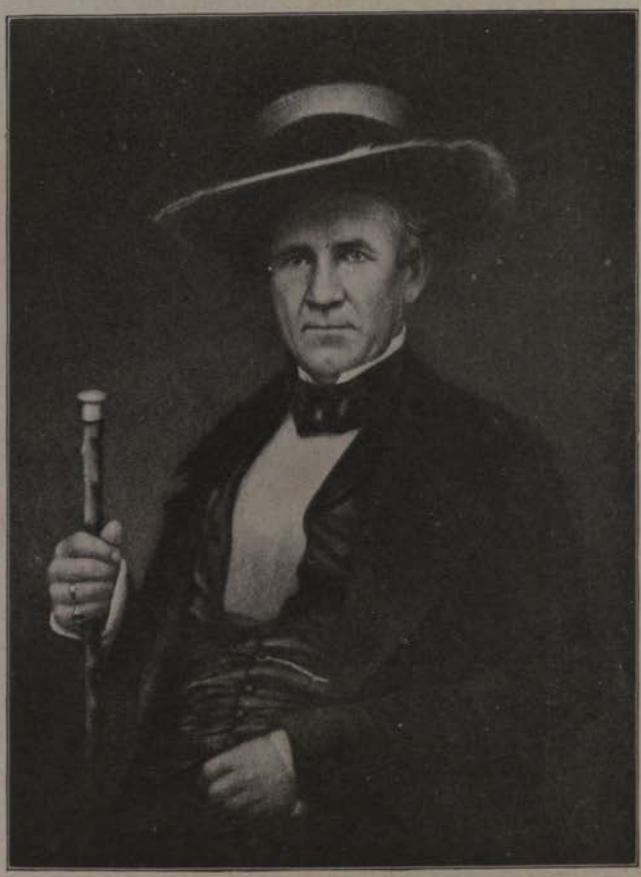
(Son of Moses Austin, of Connecticut, who in 1820 received from Mexico permission to colonize three hundred families in the province of Texas. Moses Austin died June 10, 1821, and his son, Stephen, carried out his father's plan and introduced, in 1821, the first Anglo-American colonists in Texas. Later, in 1835, he became commander-in-chief of the Texan army in the Revolution against Mexico, and was appointed commissioner to the United States. In 1836 he was a candidate for President of the new republic, but was defeated by Sam Houston, who appointed him Secretary of State)

with the proper evidence of its adoption by the people of said Republic of Texas, shall be transmitted to the President of the United States, to be laid before Congress for its final action, on or before the first day of January, one thousand eight hundred and forty-six. *Second.* Said State, when admitted into the Union, after ceding to the United States, all public edifices, fortifications, barracks, ports and harbors, navy and navy-yards, docks, magazines, arms, armaments, and all other property and means pertaining to the public defence belonging to said Republic of Texas, shall retain all the public funds, debts, taxes, and dues of every kind, which may belong to or be due and owing said republic; and shall also retain all the vacant and unappropriated lands lying within its limits, to be applied to the payment of the debts and liabilities of said Republic of Texas, and the residue of said lands, after discharging said debts and liabilities, to be disposed of as said State may direct; but in no event are said debts and liabilities to become a charge upon the Government of the United States. *Third.* New States, of convenient size, not exceeding four in number, in addition to said State of Texas, and having sufficient population, may hereafter, by the consent of said State, be formed out of the territory thereof, which shall be entitled to admission under the provisions of the federal constitution. And such States as may be formed out of that portion of said territory lying south of thirty-six degrees thirty minutes north latitude, commonly known as the Missouri compromise line, shall be admitted into the Union with or without slavery, as the people of each State asking admission may desire. And in such State or States as shall be formed out of said territory north of said Missouri compromise line, slavery, or involuntary servitude, (except for crime,) shall be prohibited.

3. *And be it further resolved,* That if the President of the United States shall in his judgment and discretion

deem it most advisable, instead of proceeding to submit the foregoing resolution to the Republic of Texas, as an overture on the part of the United States for admission, to negotiate with that Republic; then,

Be it resolved, That a State, to be formed out of the present Republic of Texas, with suitable extent and boundaries, and with two representatives in Congress, until the next apportionment of representation, shall be admitted into the Union, by virtue of this act, on an equal footing with the existing States, as soon as the terms and conditions of such admission, and the cession of the remaining Texian territory to the United States shall be agreed upon by the Governments of Texas and the United States: And that the sum of one hundred thousand dollars be, and the same is hereby, appropriated to defray the expenses of missions and negotiations, to agree upon the terms of said admission and cession, either by treaty to be submitted to the Senate, or by articles to be submitted to the two houses of Congress, as the President may direct.



Sam Houston

SAM HOUSTON, WITH WHOSE CAREER THE STORY OF TEXAS IS CLOSELY CONNECTED

(After an engraving by J. C. Buttre from a daguerreotype by B. P. Page)

Polk's Mexican War Message, 1846

Five days after the approval of the joint resolution for the annexation of Texas, the Mexican government protested against it. Diplomatic relations with the United States were suspended soon afterward, and both countries prepared to defend their course by armed force. In his annual message of December 2, 1845, President Polk considered existing conditions, and on May 11, 1846, he issued the special message. Text from "Senate Journal," First Session, Twenty-ninth Congress, 1845–46 (Serial No. 469), pp. 280–285. (See page 118.)

To the Senate and House of Representatives:

The existing state of the relations between the United States and Mexico renders it proper that I should bring the subject to the consideration of Congress. In my message at the commencement of your present session, the state of these relations, the causes which led to the suspension of diplomatic intercourse between the two countries in March, 1845, and the long-continued and unredressed wrongs and injuries committed by the Mexican government on citizens of the United States, in their persons and property, were briefly set forth.

As the facts and opinions which were then laid before you were carefully considered, I can not better express my present convictions of the condition of affairs up to that time, than by referring you to that communication.

The strong desire to establish peace with Mexico on

liberal and honorable terms, and the readiness of this government to regulate and adjust our boundary, and other causes of difference with that power, on such fair and equitable principles as would lead to permanent relations of the most friendly nature, induced me in September last to seek the reopening of diplomatic relations between the two countries. Every measure adopted on our part had for its object the furtherance of these desired results. In communicating to Congress a succinct statement of the injuries which we had suffered from Mexico, and which have been accumulating during a period of more than twenty years, every expression that could tend to inflame the people of Mexico, or defeat or delay a pacific result, was carefully avoided. An envoy of the United States repaired to Mexico, with full powers to adjust every existing difference. But though present on the Mexican soil, by agreement between the two governments, invested with full powers, and bearing evidence of the most friendly dispositions, his mission has been unavailing. The Mexican government not only refused to receive him, or listen to his propositions, but, after a long-continued series of menaces, have at last invaded our territory, and shed the blood of our fellow-citizens on our own soil.

It now becomes my duty to state more in detail the origin, progress, and failure of that mission. In pursuance of the instructions given in September last, an inquiry was made, on the 13th of October, 1845, in the most friendly terms, through our consul in Mexico, of the minister for foreign affairs, whether the Mexican government "would receive an envoy from the United States intrusted with full powers to adjust all the questions in dispute between the two governments;" with the assurance that "should the answer be in the affirmative, such an envoy would be immediately despatched to Mexico." The Mexican minister, on the 15th of October, gave an affirmative answer to this inquiry,

THE CITY OF AUSTIN, TEXAS, IN 1840

(From a lithograph)

requesting, at the same time, that our naval force at Vera Cruz might be withdrawn, lest its continued presence might assume the appearance of menace and coercion pending the negotiations. This force was immediately withdrawn. On the 10th of November, 1845, Mr. John Slidell, of Louisiana, was commissioned by me as envoy extraordinary and minister plenipotentiary of the United States to Mexico, and was intrusted with full powers to adjust both the questions of the Texas boundary and of indemnification to our citizens. The redress of the wrongs of our citizens naturally and inseparably blended itself with the question of boundary. The settlement of the one question, in any correct view of the subject, involves that of the other. I could not, for a moment, entertain the idea that the claims of our much injured and long suffering citizens, many of which had existed for more than twenty years, should be postponed, or separated from the settlement of the boundary question.

Mr. Slidell arrived at Vera Cruz on the 30th of November, and was courteously received by the authorities of that city. But the government of General Herrera was then tottering to its fall. The revolutionary party had seized upon the Texas question to effect or hasten its overthrow. Its determination to restore friendly relations with the United States, and to receive our minister, to negotiate for the settlement of this question, was violently assailed, and was made the great theme of denunciation against it. The government of General Herrera, there is good reason to believe, was sincerely desirous to receive our minister; but it yielded to the storm raised by its enemies, and on the 21st of December refused to accredit Mr. Slidell upon the most frivolous pretexts. These are so fully and ably exposed in the note of Mr. Slidell, of the 24th of December last, to the Mexican minister of foreign relations, herewith transmitted, that I deem it unnecessary to

enter into further detail on this portion of the subject.

Five days after the date of Mr. Slidell's note, General Herrera yielded the government to General Paredes, without a struggle, and on the 30th of December resigned the presidency. This revolution was accomplished solely by the army, the people having taken little part in the contest; and thus the supreme power of Mexico passed into the hands of a military leader.

Determined to leave no effort untried to effect an amicable adjustment with Mexico, I directed Mr. Slidell to present his credentials to the government of General Paredes, and ask to be officially received by him. There would have been less ground for taking this step had General Paredes come into power by a regular constitutional succession. In that event his administration would have been considered but a mere constitutional continuance of the government of General Herrera, and the refusal of the latter to receive our minister would have been deemed conclusive, unless an intimation had been given by General Paredes of his desire to reverse the decision of his predecessor. But the government of General Paredes owes its existence to a military revolution, by which the subsisting constitutional authorities had been subverted. The form of government was entirely changed, as well as all the high functionaries by whom it was administered.

Under these circumstances, Mr. Slidell, in obedience to my direction, addressed a note to the Mexican minister of foreign relations, under date of the first of March last, asking to be received by that government in the diplomatic character to which he had been appointed. This minister, in his reply under date of the 12th of March, reiterated the arguments of his predecessor, and in terms that may be considered as giving just grounds of offence to the government and people of the United States, denied the application of Mr. Slidell. Nothing,

therefore, remained for our envoy but to demand his passports, and return to his own country.

Thus the government of Mexico, though solemnly pledged by official acts in October last to receive and accredit an American envoy, violated their plighted faith, and refused the offer of a peaceful adjustment of our difficulties. Not only was the offer rejected, but the indignity of its rejection was enhanced by the manifest breach of faith in refusing to admit the envoy, who came because they had bound themselves to receive him. Nor can it be said that the offer was fruitless from the want of opportunity of discussing it: our envoy was present on their own soil. Nor can it be ascribed to a want of sufficient powers: our envoy had full powers to adjust every question of difference. Nor was there room for complaint that our propositions for settlement were unreasonable: permission was not even given our envoy to make any proposition whatever. Nor can it be objected that we, on our part, would not listen to any reasonable terms of their suggestion: the Mexican government refused all negotiation, and have made no proposition of any kind.

LORENZO DE ZAVALA, FIRST VICE-PRESIDENT OF THE REPUBLIC OF TEXAS

(From "Texas, Imperial State of America," by W. W. Dexter, Houston, Texas. The official and exclusive book of the Texas World's Fair Commission. The work was suggested by the Texas exhibit at the Great St. Louis Exposition of 1904)

In my message at the commencement of the present session, I informed you that, upon the earnest appeal

both of the congress and convention of Texas, I had ordered an efficient military force to take a position "between the Nueces and the Del Norte." This had become necessary, to meet a threatened invasion of Texas by the Mexican forces, for which extensive military preparations had been made. The invasion was threatened solely because Texas had determined, in accordance with a solemn resolution of the Congress of the United States, to annex herself to our Union; and, under these circumstances, it was plainly our duty to extend our protection over her citizens and soil.

This force was concentrated at Corpus Christi, and remained there until after I had received such information from Mexico as rendered it probable, if not certain, that the Mexican government would refuse to receive our envoy.

Meantime Texas, by the final action of our Congress, had become an integral part of our Union. The Congress of Texas, by its act of December 19, 1836, had declared the Rio del Norte to be the boundary of that republic. Its jurisdiction had been extended and exercised beyond the Nueces. The country between that river and the Del Norte had been represented in the congress and in the convention of Texas; had thus taken part in the act of annexation itself; and is now included within one of our congressional districts. Our own Congress had, moreover, with great unanimity, by the act approved December 31, 1845, recognised the country beyond the Nueces as a part of our territory, by including it within our own revenue system; and a revenue officer, to reside within that district, has been appointed, by and with the advice and consent of the senate. It became, therefore, of urgent necessity to provide for the defence of that portion of our country. Accordingly, on the 13th of January last, instructions were issued to the general in command of these troops to occupy the left bank of the Del Norte. This river, which is the

southwestern boundary of the state of Texas, is an exposed frontier; from this quarter invasion was threatened; upon it, and in its immediate vicinity, in the judgment of high military experience, are the proper stations for the protecting forces of the government. In addition to this important consideration, several others

THE FIRST CAPITOL OF THE REPUBLIC OF TEXAS, AT COLUMBIA, 1836

(From "Texas, Imperial State of America," Houston, Texas. First capitol of Coahuila and Texas was at Saltillo, 1824, and moved to Monclova. First capitol of Texas Republic at Columbia, 1836, moved to Houston, 1837, moved to Austin, 1839, moved to Washington, temporarily, 1842, then to Houston, and finally to Austin again)

occurred to induce this movement. Among these are the facilities afforded by the ports at Brazos Santiago and the mouth of the Del Norte, for the reception of supplies by sea; the stronger and more healthful military positions; the convenience for obtaining a ready and a more abundant supply of provisions, water, fuel, and forage; and the advantages which are afforded by the Del Norte in forwarding supplies to such posts as may be established in the interior and upon the Indian frontier.

The movement of the troops to the Del Norte was made by the commanding general, under positive instructions to abstain from all aggressive acts toward Mexico or Mexican citizens, and to regard the relations between that republic and the United States as peaceful, unless she should declare war, or commit acts of hostility indicative of a state of war. He was specially directed to protect private property, and respect personal rights.

The army moved from Corpus Christi on the 11th of March, and on the 28th of that month arrived on the left bank of the Del Norte, opposite to Matamoras, where it encamped on a commanding position, which has since been strengthened by the erection of field works. A depot has also been established at Point Isabel, near the Brazos Santiago, thirty miles in rear of the encampment. The selection of his position was necessarily confided to the judgment of the general in command.

The Mexican forces at Matamoras assumed a belligerent attitude, and, on the 12th of April, General Ampudia, then in command, notified General Taylor to break up his camp within twenty-four hours, and to retire beyond the Nueces river, and, in the event of his failure to comply with these demands, announced that arms, and arms alone, must decide the question. But no open act of hostility was committed until the 24th of April. On that day, General Arista, who had succeeded to the command of the Mexican forces, communicated to General Taylor that "he considered hostilities commenced, and should prosecute them." A party of dragoons, of sixty-three men and officers, were on the same day despatched from the American camp up the Rio del Norte, on its left bank, to ascertain whether the Mexican troops had crossed, or were preparing to cross, the river, "became engaged with a large body of these troops, and, after a short affair, in which some

sixteen were killed and wounded, appear to have been surrounded and compelled to surrender."

The grievous wrongs perpetrated by Mexico upon our citizens throughout a long period of years remain unredressed; and solemn treaties, pledging her public faith for this redress, have been disregarded. A gov-

OLD CAPITOL AT HOUSTON, TEXAS, 1837

ernment either unable or unwilling to enforce the execution of such treaties, fails to perform one of its plainest duties.

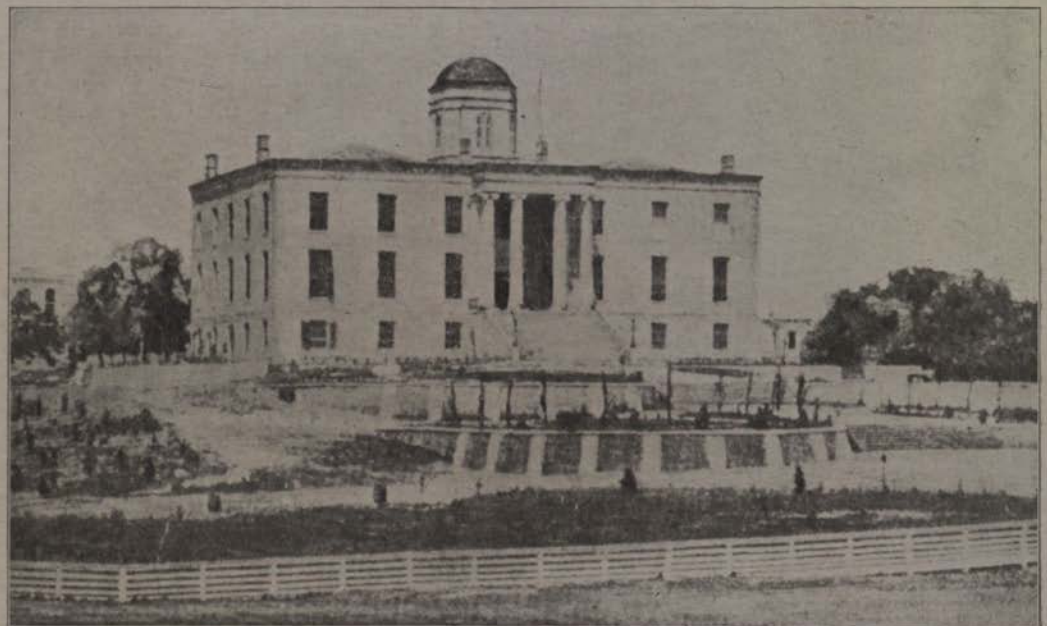
Our commerce with Mexico has been almost annihilated. It was formerly highly beneficial to both nations; but our merchants have been deterred from prosecuting it by the system of outrage and extortion which the Mexican authorities have pursued against them, whilst their appeals through their own government for indemnity have been made in vain. Our forbearance has gone to such an extreme as to be mistaken in its character. Had we acted with vigor in repelling the insults and redressing the injuries inflicted by Mexico at the

commencement, we should doubtless have escaped all the difficulties in which we are now involved.

Instead of this, however, we have been exerting our best efforts to propitiate her good-will. Upon the pretext that Texas, a nation as independent as herself, thought proper to unite its destinies with our own, she has affected to believe that we have severed her rightful territory, and in official proclamations and manifestoes has repeatedly threatened to make war upon us, for the purpose of reconquering Texas. In the meantime, we have tried every effort at reconciliation. The cup of forbearance had been exhausted, even before the recent information from the frontier of the Del Norte. But now, after reiterated menaces, Mexico has passed the boundary of the United States, has invaded our territory, and shed American blood upon the American soil. She has proclaimed that hostilities have commenced, and that the two nations are now at war.

As war exists, and, notwithstanding all our efforts to avoid it, exists by the act of Mexico herself, we are called upon by every consideration of duty and patriotism to vindicate with decision the honor, the rights, and the interests of our country.

Anticipating the possibility of a crisis like that which has arrived, instructions were given in August last, "as a precautionary measure" against invasion, or threatened invasion, authorizing General Taylor, if the emergency required, to accept volunteers, not from Texas only, but from the States of Louisiana, Alabama, Mississippi, Tennessee, and Kentucky; and corresponding letters were addressed to the respective governors of those states. These instructions were repeated; and, in January last, soon after the incorporation of "Texas into our union of states," General Taylor was further "authorized by the President to make a requisition upon the executive of that State for such of its militia force as may be needed to repel invasion, or to secure the



OLD CAPITOL AT AUSTIN. BURNED NOVEMBER, 1881

country against apprehended invasion." On the second day of March he was again reminded, "in the event of the approach of any considerable Mexican force, promptly and efficiently to use the authority with which he was clothed to call to him such auxiliary force as he might need." War actually existing, and our territory having been invaded, General Taylor, pursuant to authority vested in him by my direction, has called on the governor of Texas for four regiments of state troops—two to be mounted, and two to serve on foot; and on the governor of Louisiana for four regiments of infantry, to be sent to him as soon as practicable.

In further vindication of our rights, and defence of our territory, I invoke the prompt action of Congress to recognise the existence of the war, and to place at the disposition of the Executive the means of prosecuting the war with vigor, and thus hastening the restoration of peace. To this end I recommend that authority should be given to call into the public service a large body of volunteers, to serve for not less than six to twelve months, unless sooner discharged. A volunteer force is beyond question more efficient than any other description of citizen soldiers; and it is not to be doubted that a number far beyond that required would readily rush to the field upon the call of their country. I further recommend that a liberal provision be made for sustaining our entire military force and furnishing it with supplies and munitions of war.

The most energetic and prompt measures, and the immediate appearance in arms of a large and overpowering force, are recommended to Congress as the most certain and efficient means of bringing the existing collision with Mexico to a speedy and successful termination.

In making these recommendations, I deem it proper to declare that it is my anxious desire not only to terminate hostilities speedily, but to bring all matters in dispute between this government and Mexico to an

early and amicable adjustment; and, in this view, I shall be prepared to renew negotiations, whenever Mexico shall be ready to receive propositions, or to make propositions of her own.

I transmit herewith a copy of the correspondence between our envoy to Mexico and the Mexican minister for foreign affairs; and so much of the correspondence between that envoy and the Secretary of State, and between the Secretary of War and the general in command on the Del Norte, as is necessary to a full understanding of the subject.

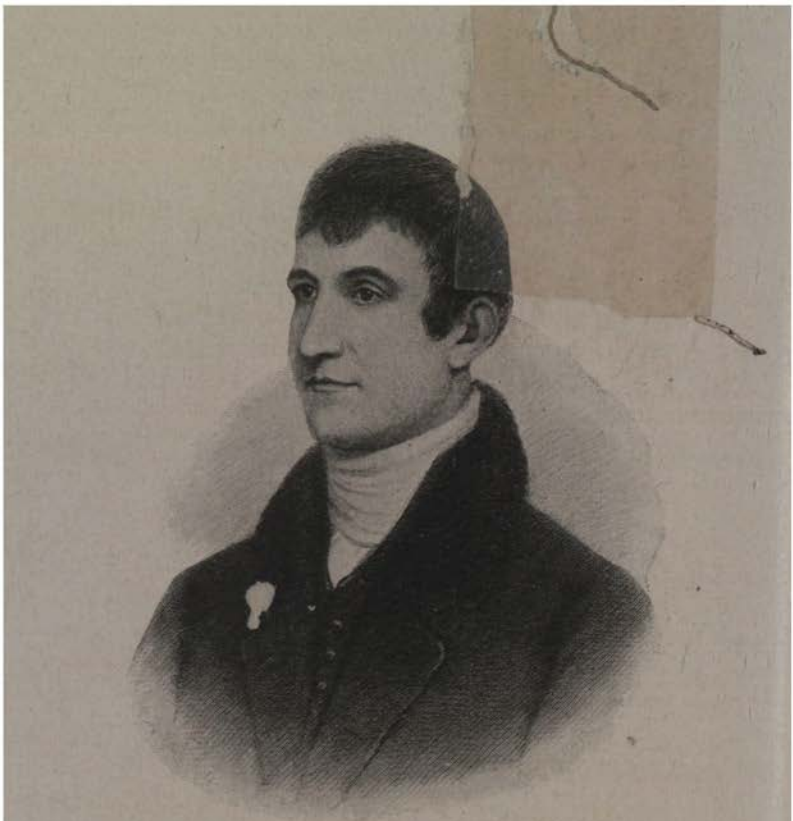
JAMES K. POLK.

Washington, May 11, 1846.

Oregon Treaty with Great Britain, 1846

Both the United States and Great Britain laid claim to the large tract of territory west of the Rocky Mountains and north of California to the 54th parallel or farther. The claims of both governments were based on discovery, exploration, and occupation. In 1818 they agreed to occupy jointly the region then known as Oregon for ten years without a determination of each other's rights therein, and this agreement was subsequently extended. The long-standing dispute was partially settled by the subjoined treaty of June 15, 1846, and completely by the treaty of 1871. The present States of Oregon, Washington, and Idaho came through these treaties to the United States; Great Britain received British Columbia. Text in "Revised Statutes Relating to District of Columbia . . . 1873–'74 . . . together with the public treaties." Washington: Government Printing Office, 1875, pp. 320–322. (See page 117.)

The United States of America and Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, deeming it to be desirable for the future welfare of both countries that the state of doubt and uncertainty which has hitherto prevailed respecting the sovereignty and government of the territory on the northwest coast of America, lying westward of the Rocky or Stony Mountains, should be finally terminated by an amicable compromise of the rights mutually asserted by

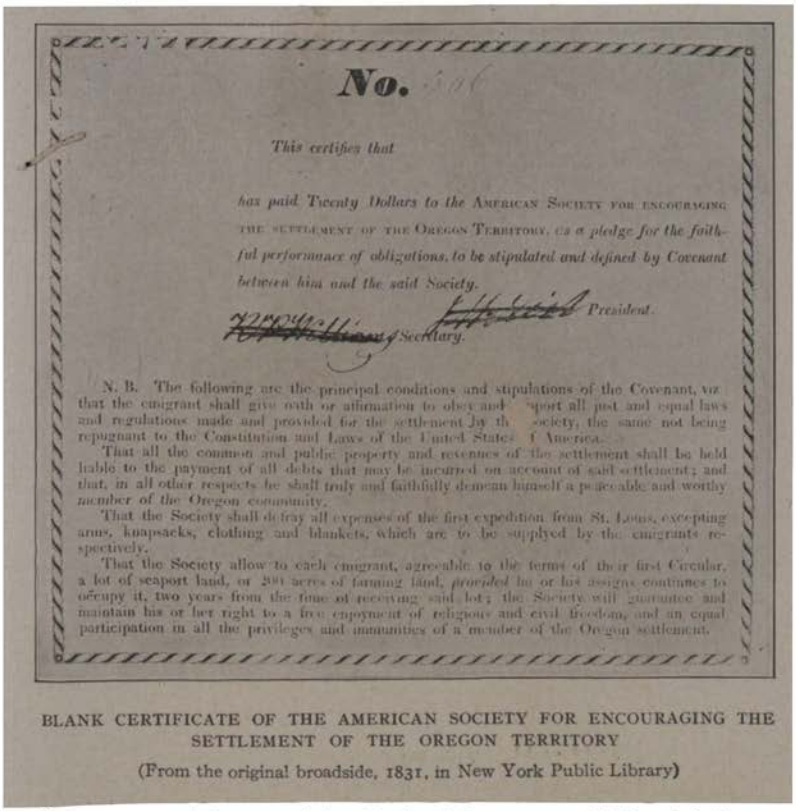


MERIWETHER LEWIS

(Both the United States and Great Britain laid claim to the whole of Oregon. The American claim was based on the discovery of the Columbia River by Captain Grey in 1792, and on the expedition of Lewis and Clark who (1804–06) explored the country from the Mississippi to the mouth of the Columbia. By this expedition the United States was enabled to connect the claim to Oregon with the purchase of Louisiana. The portrait is from an engraving by S. Hollyer after the painting by Charles Wilson Peale)

the two parties over the said territory, have respectively named Plenipotentiaries to treat and agree concerning the terms of such settlement, that is to say:

The President of the United States of America has, on his part, furnished with full powers James Buchanan,



No.

This certifies that

has paid Twenty Dollars to the AMERICAN SOCIETY FOR ENCOURAGING THE SETTLEMENT OF THE OREGON TERRITORY, *as a pledge for the faithful performance of obligations, to be stipulated and defined by Covenant between him and the said Society.*

President.

Secretary.

N. B. The following are the principal conditions and stipulations of the Covenant, viz that the emigrant shall give oath or affirmation to obey and support all just and equal laws and regulations made and provided for the settlement by the Society, the same not being repugnant to the Constitution and Laws of the United States of America.

That all the common and public property and revenues of the settlement shall be held liable to the payment of all debts that may be incurred on account of said settlement; and that, in all other respects he shall truly and faithfully demean himself a peaceable and worthy member of the Oregon community.

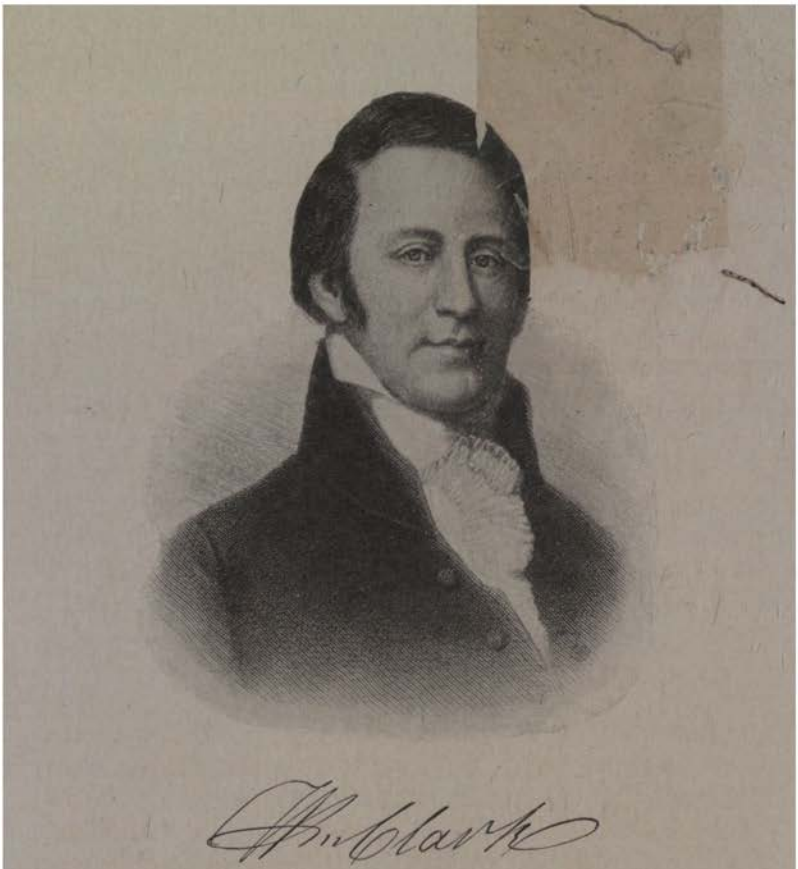
That the Society shall defray all expenses of the first expedition from St. Louis, excepting arms, knapsacks, clothing and blankets, which are to be supplyed by the emigrants respectively.

That the Society allow to each emigrant, agreeable to the terms of their first Circular, a lot of seaport land, or 320 acres of farming land, *provided* he or his assigns continues to occupy it, two years from the time of receiving said lot; the Society will guarantee and maintain his or her right to a free enjoyment of religious and civil freedom, and an equal participation in all the privileges and immunities of a member of the Oregon settlement.

BLANK CERTIFICATE OF THE AMERICAN SOCIETY FOR ENCOURAGING THE SETTLEMENT OF THE OREGON TERRITORY

(From the original broadside, 1831, in New York Public Library)

Secretary of State of the United States, and Her Majesty the Queen of the United Kingdom of Great Britain and Ireland has, on her part, appointed the Right Honorable Richard Pakenham, a member of Her Majesty's Most Honorable Privy Council, and Her Majesty's Envoy Extraordinary and Minister Plenipotentiary to the United States;



WILLIAM CLARK

(Appointed a member of Captain Lewis's expedition to the mouth of the Columbia River in 1804–06. The success of the expedition was largely due to Clark's knowledge of Indian habits. In 1813–21 he was governor of the Mississippi Territory, and in 1822–38 Superintendent of Indian Affairs in St. Louis. The portrait is from an engraving by S. Hollyer after the painting by Charles Wilson Peale)

Who, after having communicated to each other their respective full powers, found in good and due form, have agreed upon and concluded the following articles:

Article I.

From the point on the forty-ninth parallel of north latitude, where the boundary laid down in existing treaties and conventions between the United States and Great Britain terminates, the line of boundary between the territories of the United States and those of Her Britannic Majesty shall be continued westward along the said forty-ninth parallel of north latitude to the middle of the channel which separates the continent from Vancouver's Island, and thence southerly through the middle of the said channel, and of Fuca's Straits, to the Pacific Ocean: Provided, however, that the navigation of the whole of the said channel and straits, south of the forty-ninth parallel of north latitude, remain free and open to both parties.

Article II.

From the point at which the forty-ninth parallel of north latitude shall be found to intersect the great northern branch of the Columbia River, the navigation of the said branch shall be free and open to the Hudson's Bay Company, and to all British subjects trading with the same, to the point where the said branch meets the main stream of the Columbia, and thence down the said main stream to the ocean, with free access into and through the said river or rivers, it being understood that all the usual portages along the line thus described shall, in like manner, be free and open. In navigating the said river or rivers, British subjects, with their goods and produce, shall be treated on the same footing as citizens of the United States; it being, however, always

NATHANIEL J. WYETH

(Who organized a movement for the colonization of Oregon, and between 1831 and 1836 led two expeditions across the American continent)

understood that nothing in this article shall be construed as preventing, or intended to prevent, the Government of the United States from making any regulations respecting the navigation of the said river or rivers not inconsistent with the present treaty.

Article III.

In the future appropriation of the territory south of the forty-ninth parallel of north latitude, as provided in the first article of this treaty, the possessory rights of the Hudson's Bay Company, and of all British subjects who may be already in the occupation of land or other property lawfully acquired within the said territory, shall be respected.

Article IV.

The farms, lands, and other property of every description belonging to the Puget's Sound Agricultural Company, on the north side of the Columbia River, shall be confirmed to the said company. In case, however, the situation of those farms and lands should be considered by the United States to be of public and political importance, and the United States Government should signify a desire to obtain possession of the whole, or of any part thereof, the property so required shall be transferred to the said Government, at a proper valuation, to be agreed upon between the parties.

Article V.

The present treaty shall be ratified by the President of the United States, by and with the advice and consent of the Senate thereof, and by Her Britannic Majesty; and the ratifications shall be exchanged at Lon-

don, at the expiration of six months from the date hereof, or sooner if possible.

In witness whereof the respective Plenipotentiaries have signed the same, and have affixed thereto the seals of their arms.

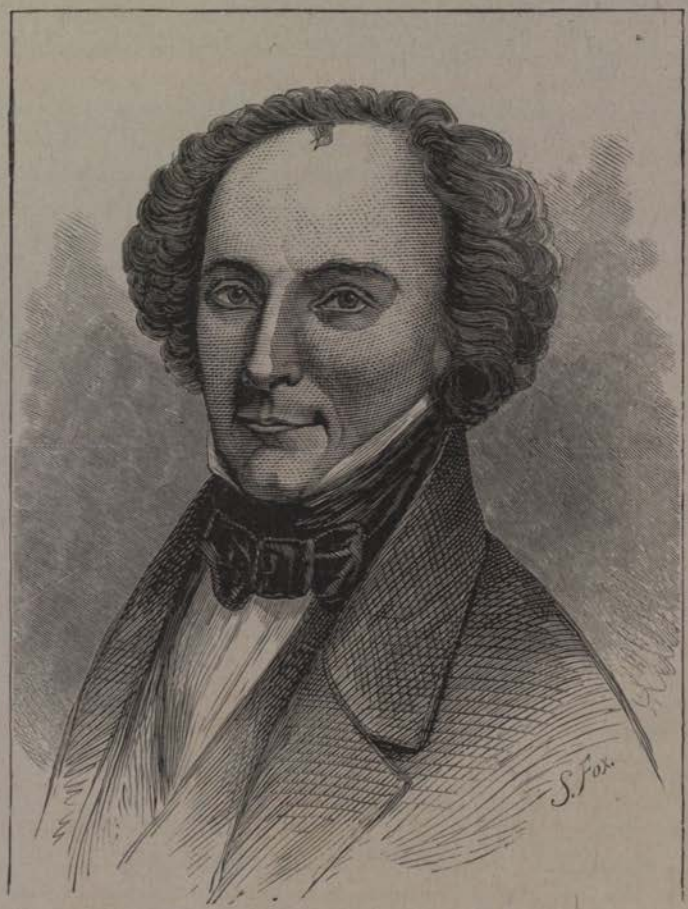
Done at Washington the fifteenth day of June, in the year of our Lord one thousand eight hundred and forty-six.

The Independent Treasury Act, 1846

This Act was to provide for the better organization of the Treasury and for the collection, safe-keeping, and disbursement of the public revenue. The Act was originally passed on July 4, 1840; repealed on August 13, 1841; again introduced in modified form on December 19, 1845; and passed on August 6, 1846. Extracts from text in "United States Statutes at Large," Vol. IX., pp. 59–66. (See page 124.)

Whereas, by the fourth section of the act entitled "An Act to establish the Treasury Department," approved September two, seventeen hundred and eighty-nine, it was provided that it should be the duty of the treasurer to receive and keep the moneys of the United States, and to disburse the same upon warrants drawn by the Secretary of the Treasury, countersigned by the comptroller, and recorded by the register, and not otherwise: and whereas it is found necessary to make further provisions to enable the treasurer the better to carry into effect the intent of the said section in relation to the receiving and disbursing the moneys of the United States: Therefore—

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the rooms prepared and provided in the new treasury building at the seat of government for the use of the treasurer of the United States, his assistants, and clerks, and occupied by them, and also the fireproof



R. J. Walker

ROBERT J. WALKER

(Secretary of the Treasury during the administration of President Polk)

vaults and safes erected in said rooms for the keeping of the public moneys in the possession and under the immediate control of said treasurer, and such other apartments as are provided for in this act as places of deposit of the public money, are hereby constituted and declared to be the treasury of the United States. And all moneys paid into the same shall be subject to the draft of the treasurer, drawn agreeably to appropriations made by law.

. . . . . .

SEC. 5. *And be it further enacted*, That the President shall nominate, and by and with the advice and consent of the Senate appoint, four officers to be denominated "assistant treasurers of the United States," which said officers shall hold their respective offices for the term of four years, unless sooner removed therefrom; one of which shall be located at the city of New York, in the State of New York; one other of which shall be located at the city of Boston, in the State of Massachusetts; one other of which shall be located at the city of Charleston, in the State of South Carolina; and one other at St. Louis, in the State of Missouri. And all of which said officers shall give bonds to the United States, with sureties, according to the provisions hereinafter contained, for the faithful discharge of the duties of their respective offices.

SEC. 6. *And be it further enacted*, That the treasurer of the United States, the treasurer of the mint of the United States, the treasurers, and those acting as such, of the various branch mints, all collectors of the customs, all surveyors of the customs acting also as collectors, all assistant treasurers, all receivers of public moneys at the several land offices, all postmasters, and all public officers of whatsoever character, be, and they are hereby, required to keep safely, without loaning, using, depositing in banks, or exchanging for other funds than as al-

lowed by this act, all the public money collected by them, or otherwise at any time placed in their possession and custody, till the same is ordered, by the proper department or officer of the government, to be transferred or paid out; and when such orders for transfer or payment are received, faithfully and promptly to make the same as directed, and to do and perform all other duties as fiscal agents of the government which may be imposed by this or any other acts of Congress, or by any regulation of the treasury department made in conformity to law; and also to do and perform all acts and duties required by law, or by direction of any of the Executive departments of the government, as agents for paying pensions, or for making any other disbursements which either of the heads of these departments may be required by law to make, and which are of a character to be made by the depositaries hereby constituted, consistently with the other official duties imposed upon them.

. . . . . .

SEC. 9. *And be it further enacted*, That all collectors and receivers of public money, of every character and description, within the District of Columbia, shall, as frequently as they may be directed by the Secretary of the Treasury, or the Postmaster-General so to do, pay over to the treasurer of the United States, at the treasury, all public moneys collected by them, or in their hands; that all such collectors and receivers of public moneys within the cities of Philadelphia and New Orleans shall, upon the same direction, pay over to the treasurers of the mints in their respective cities, at the said mints, all public moneys collected by them, or in their hands; and that all such collectors and receivers of public moneys within the cities of New York, Boston, Charleston, and St. Louis, shall, upon the same direction, pay over to the assistant treasurers in their re-

spective cities, at their offices, respectively, all the public moneys collected by them, or in their hands, to be safely kept by the said respective depositaries until otherwise disposed of according to law; and it shall be the duty of the said Secretary and Postmaster-General respectively to direct such payments by the said collectors and receivers at all the said places, at least as often as once in each week, and as much more frequently, in all cases, as they in their discretion may think proper.

SEC. 10. *And be it further enacted*, That it shall be lawful for the Secretary of the Treasury to transfer the moneys in the hands of any depositary hereby constituted to the treasury of the United States, to be there safely kept, to the credit of the treasurer of the United States, according to the provisions of this act; and also to transfer moneys in the hands of any one depositary constituted by this act to any other depositary constituted by the same, at his discretion, and as the safety of the public moneys, and the convenience of the public service, shall seem to him to require; which authority to transfer the moneys belonging to the post-office department is also hereby conferred upon the Postmaster-General, so far as its exercise by him may be consistent with the provisions of existing laws; and every depositary constituted by this act shall keep his account of the money paid to or deposited with him, belonging to the post-office department, separate and distinct from the account kept by him of other public moneys so paid or deposited. And for the purpose of payments on the public account, it shall be lawful for the treasurer of the United States to draw upon any of the said depositaries, as he may think most conducive to the public interest, or to the convenience of the public creditors, or both. And each depositary so drawn upon shall make returns to the treasury and post-office departments of all moneys received and paid by him, at

such times and in such form as shall be directed by the Secretary of the Treasury or the Postmaster-General.

. . . . . .

SEC. 14. *And be it further enacted*, That the Secretary of the Treasury may, at his discretion, transfer the balances remaining with any of the present depositaries to any other of the present depositaries, as he may deem the safety of the public money or the public convenience may require: *Provided*, That nothing in this act shall be so construed as to authorize the Secretary of the Treasury to transfer the balances remaining with any of the present depositaries to the depositaries constituted by this act before the first day of January next: *And provided*, That, for the purpose of payments on public account, out of balances remaining with the present depositaries, it shall be lawful for the treasurer of the United States to draw upon any of the said depositaries as he may think most conducive to the public interests, or to the convenience of the public creditors, or both.

SEC. 15. *And be it further enacted*, That all marshals, district attorneys, and others having public money to pay to the United States, and all patentees wishing to make payment for patents to be issued, may pay all such moneys to the treasurer of the United States, to the treasurer of either of the mints in Philadelphia or New Orleans, to either of the other assistant treasurers, or to such other depositary constituted by this act as shall be designated by the Secretary of the Treasury in other parts of the United States to receive such payments, and give receipts or certificates of deposit therefor.

. . . . . .

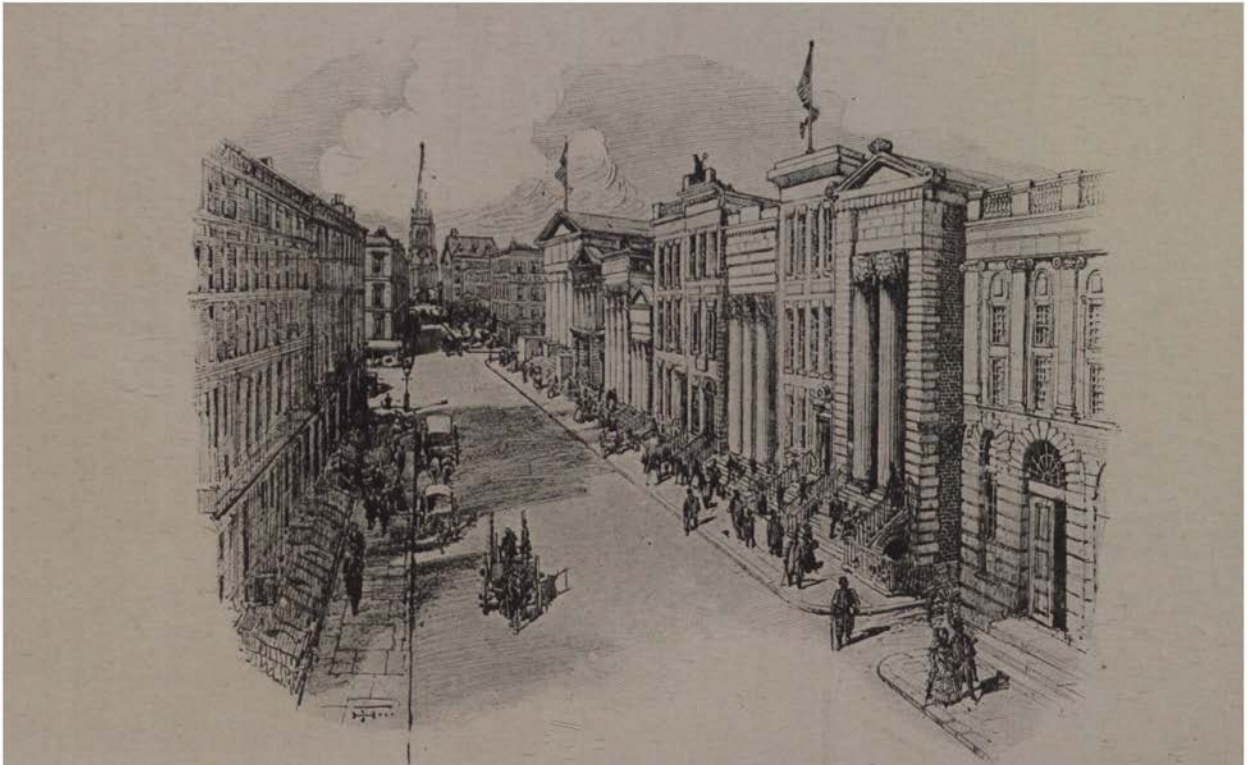
SEC. 17. [The first paragraph of this section provides for temporary accommodations for the several depositaries.]

And whereas, by the thirtieth section of the act en-

titled "An Act to regulate the Collection of Duties imposed by Law on the Tonnage of Ships or Vessels, and on Goods, Wares, and Merchandises, imported into the United States," approved July thirty-one, seventeen hundred and eighty-nine, it was provided that all fees and dues collected by virtue of that act should be received in gold and silver coin only; and whereas, also, by the fifth section of the act approved May ten, eighteen hundred, entitled "An Act to amend the Act entitled 'An Act providing for the sale of the Lands of the United States in the Territory North-west of the Ohio, and above the Mouth of the Kentucky River,'" it was provided that payment for the said lands shall be made by all purchasers in specie, or in evidences of the public debt; and whereas, experience has proved that said provisions ought to be revived and enforced, according to the true and wise intent of the constitution of the United States.—

SEC. 18. *Be it further enacted*, That on the first day of January, in the year one thousand eight hundred and forty-seven, and thereafter, all duties, taxes, sales of public lands, debts, and sums of money accruing or becoming due to the United States, and also all sums due for postages or otherwise, to the general post-office department, shall be paid in gold and silver coin only, or in treasury notes issued under the authority of the United States: *Provided*, That the Secretary of the Treasury shall publish, monthly, in two newspapers at the city of Washington, the amount of specie at the several places of deposit, the amount of treasury notes or drafts issued, and the amount outstanding on the last day of each month.

SEC. 19. *And be it further enacted*, That on the first day of April, one thousand eight hundred and forty-seven, and thereafter, every officer or agent engaged in making disbursements on account of the United States, or of the general post-office, shall make all payments in



WALL STREET, NEW YORK, ABOUT 1847

gold and silver coin, or in treasury notes, if the creditor agree to receive said notes in payment; and any receiving or disbursing officer or agent who shall neglect, evade, or violate, the provisions of this and the last preceding section of this act, shall, by the Secretary of the Treasury, be immediately reported to the President of the United States, with the facts of such neglect, evasion, or violation; and also to Congress, if in session; and if not in session, at the commencement of its session next after the violation takes place.

SEC. 20. *And be it further enacted*, That no exchange of funds shall be made by any disbursing officers or agents of the government, of any grade or denomination whatsoever, or connected with any branch of the public service, other than an exchange for gold and silver; and every such disbursing officer, when the means for his disbursements are furnished to him in gold and silver, shall make his payments in the money so furnished; or when those means are furnished to him in drafts, shall cause those drafts to be presented at their place of payment, and properly paid according to the law, and shall make his payments in the money so received for the drafts furnished, unless, in either case, he can exchange the means in his hands for gold and silver at par. And it shall be and is hereby made the duty of the head of the proper department immediately to suspend from duty any disbursing officer who shall violate the provisions of this section, and forthwith to report the name of the officer or agent to the President, with the fact of the violation, and all the circumstances accompanying the same, and within the knowledge of the said Secretary, to the end that such officer or agent may be promptly removed from office, or restored to his trust and the performance of his duties, as to the President may seem just and proper: *Provided, however*, That those disbursing officers having at present credits in the bank shall, until the first day of January next,

be allowed to check on the same, allowing the public creditors to receive their pay from the banks either in specie or bank notes.

SEC. 21. *And be it further enacted*, That it shall be the duty of the Secretary of the Treasury to issue and publish regulations to enforce the speedy presentation of all government drafts for payment at the place where payable, and to prescribe the time, according to the different distances of the depositaries from the seat of government, within which all drafts upon them, respectively, shall be presented for payment; and, in default of such presentation, to direct any other mode and place of payment which he may deem proper; but, in all these regulations and directions, it shall be the duty of the Secretary of the Treasury to guard, as far as may be, against those drafts being used or thrown into circulation as a paper currency or medium of exchange. And no officer of the United States shall, either directly or indirectly, sell or dispose to any person or persons or corporations, whatsoever, for a premium, any treasury note, draft, warrant, or other public security, not his private property, or sell or dispose of the avails or proceeds of such note, draft, warrant, or security, in his hands for disbursement, without making return of such premium, and accounting therefor by charging the same in his accounts to the credit of the United States; and any officer violating this section shall be forthwith dismissed from office.

. . . . . .

The Wilmot Provisos, 1846–47

These celebrated amendments were first moved on August 8, 1846. A bill was under consideration in the Committee of the Whole on the State of the Union, House of Representatives, entitled "An Act making further provision for the expenses attending the intercourse between the United States and foreign nations," when David Wilmot moved the amendment. This was adopted in the Committee of the Whole and then in the House, but the Senate adjourned without taking final action. On February 8, 1847, when the "Three-million" bill was under consideration in the House Committee of the Whole, Mr. Wilmot moved his second amendment, which the Committee adopted. The Senate passed a similar bill and when it came to the House Mr. Wilmot again attempted to have his amendment inserted, but failed. The Senate bill without the amendment became a law. Text from "Congressional Globe." (See page 123.)

First Wilmot Proviso

Text of First Wilmot Proviso from the "Congressional Globe," Twenty-ninth Congress, First Session, Vol. XV., p. 1217.

Provided, that as an express and fundamental condition to the acquisition of any territory from the republic of Mexico by the United States, by virtue of any

DAVID WILMOT

(Representative in Congress from Pennsylvania who moved an amendment in the form of a proviso that slavery should be forbidden in any territory to be acquired from Mexico)

treaty which may be negotiated between them, and to the use by the executive of the moneys herein appropriated, neither slavery nor involuntary servitude shall ever exist in any part of said territory, except for crime, whereof the party shall first be duly convicted.

Second Wilmot Proviso

Text of Second Wilmot Proviso from the "Congressional Globe," Twenty-ninth Congress, Second Session, Vol. XVI., p. 318 of the Appendix.

And be it further enacted, That there shall be neither slavery nor involuntary servitude in any territory on the continent of America, which shall hereafter be acquired by or annexed to the United States, by virtue of this appropriation, or in any other manner whatever, except for crimes, whereof the party shall have been duly convicted: *Provided always*, That any person escaping into such territory from whom labor or service is lawfully claimed in any one of the United States, such fugitive may be lawfully reclaimed and conveyed out of said territory to the person claiming his or her labor or service.

Treaty of Guadalupe-Hidalgo, 1848

Under this treaty, which terminated the Mexican War, all the country north of the Rio Grande to the point where that river strikes the southern boundary of New Mexico and westward one league south of San Diego, California, was ceded to the United States. Extracts from "Revised Statutes Relating to District of Columbia . . . 1873–'74 . . . together with the public treaties." Washington: Government Printing Office, 1875, pp. 492–501. (See page 122.)

In the name of Almighty God:

The United States of America and the United Mexican States, animated by a sincere desire to put an end to the calamities of the war which unhappily exists between the two Republics, and to establish upon a solid basis relations of peace and friendship, which shall confer reciprocal benefits upon the citizens of both, and assure the concord, harmony, and mutual confidence wherein the two peoples should live, as good neighbors, have for that purpose appointed their respective plenipotentiaries, that is to say:

The President of the United States has appointed Nicholas P. Trist, a citizen of the United States, and the President of the Mexican Republic has appointed Don Luis Gonzaga Cuevas, Don Bernardo Couto, and Don Miguel Atristain, citizens of the said Republic:

WINFIELD SCOTT, AT THE AGE OF 37, COMMANDER-IN-CHIEF IN MEXICAN WAR, 1846–48

(From an engraving by A. H. Ritchie after a painting by C. Ingham)

Who, after a reciprocal communication of their respective full powers, have, under the protection of Almighty God, the author of peace, arranged, agreed upon, and signed the following

Treaty of Peace, Friendship, Limits, and Settlement between the United States of America and the Mexican Republic.

ARTICLE I.

There shall be firm and universal peace between the United States of America and the Mexican Republic, and between their respective countries, territories, cities, towns, and people, without exception of places or persons.

. . . . . .

ARTICLE V.

The boundary line between the two Republics shall commence in the Gulf of Mexico, three leagues from land, opposite the mouth of the Rio Grande, otherwise called Rio Bravo del Norte, or opposite the mouth of its deepest branch, if it should have more than one branch emptying directly into the sea; from thence up the middle of that river, following the deepest channel, where it has more than one, to the point where it strikes the southern boundary of New Mexico; thence, westwardly, along the whole southern boundary of New Mexico (which runs north of the town called Paso) to its western termination; thence, northward, along the western line of New Mexico, until it intersects the first branch of the river Gila; (or if it should not intersect any branch of that river, then to the point on the said line nearest to such branch, and thence in a direct line to the same;) thence down the middle of the said branch and of the said river, until it empties into the

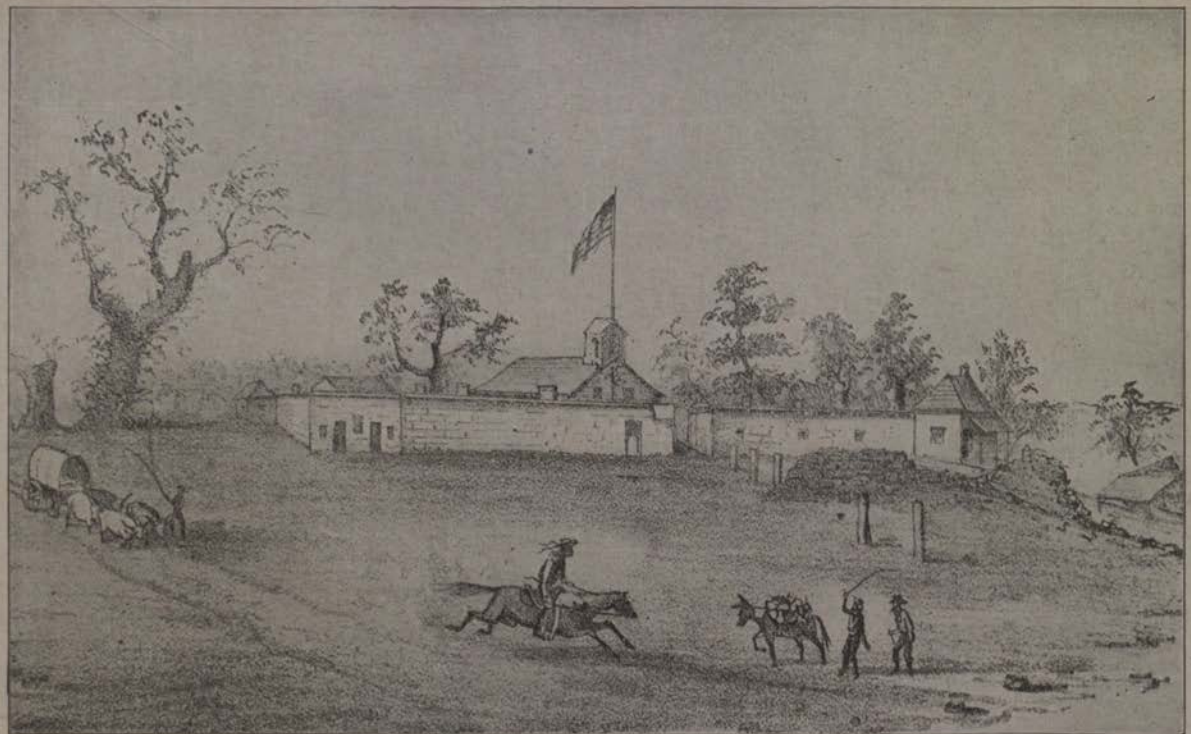
Rio Colorado; thence across the Rio Colorado, following the division line between Upper and Lower California, to the Pacific Ocean.

The southern and western limits of New Mexico, mentioned in this article, are those laid down in the map entitled "*Map of the United Mexican States, as organized and defined by various acts of the Congress of said republic, and constructed according to the best authorities. Revised edition. Published at New York, in* 1847, *by J. Disturnell;*" of which map a copy is added to this treaty, bearing the signatures and seals of the undersigned Plenipotentiaries. And, in order to preclude all difficulty in tracing upon the ground the limit separating Upper from Lower California, it is agreed that the said limit shall consist of a straight line drawn from the middle of the Rio Gila, where it unites with the Colorado, to a point on the coast of the Pacific Ocean, distant one marine league due south of the southernmost point of the port of San Diego, according to the plan of said port made in the year 1782 by Don Juan Pantoja, second sailing-master of the Spanish fleet, and published at Madrid in the year 1802, in the atlas to the voyage of the schooners Sutil and Mexicana; of which plan a copy is hereunto added, signed and sealed by the respective Plenipotentiaries. . . .

The boundary line established by this article shall be religiously respected by each of the two republics, and no change shall ever be made therein, except by the express and free consent of both nations, lawfully given by the General Government of each, in conformity with its own constitution.

Article VI.

The vessels and citizens of the United States shall, in all time, have a free and uninterrupted passage by the Gulf of California, and by the river Colorado below



SUTTER'S FORT, COLOMA, CALIFORNIA, AS IT WAS IN 1848

(On January 24, 1848, ten days before the Treaty of Guadalupe-Hidalgo was signed, gold was discovered by James W. Marshall in the earth taken from Colonel Sutter's mill-race. Reproduced from Gertrude Atherton's "California")

its confluence with the Gila, to and from their possessions situated north of the boundary line defined in the preceding article; it being understood that this passage is to be by navigating the Gulf of California and the river Colorado, and not by land, without the express consent of the Mexican Government.

If, by the examinations which may be made, it should be ascertained to be practicable and advantageous to construct a road, canal, or railway, which should in whole or in part run upon the river Gila, or upon its right or its left bank, within the space of one marine league from either margin of the river, the Governments of both republics will form an agreement regarding its construction, in order that it may serve equally for the use and advantage of both countries.

Article VII.

The river Gila, and the part of the Rio Bravo del Norte lying below the southern boundary of New Mexico, being, agreeably to the fifth article, divided in the middle between the two republics, the navigation of the Gila and of the Bravo below said boundary shall be free and common to the vessels and citizens of both countries; and neither shall, without the consent of the other, construct any work that may impede or interrupt, in whole or in part, the exercise of this right; not even for the purpose of favoring new methods of navigation. Nor shall any tax or contribution, under any denomination or title, be levied upon vessels or persons navigating the same, or upon merchandise or effects transported thereon, except in the case of landing upon one of their shores. If, for the purpose of making the said rivers navigable, or for maintaining them in such state, it should be necessary or advantageous to establish any tax or contribution, this shall not be done without the consent of both Governments.

The stipulations contained in the present article shall not impair the territorial rights of either republic within its established limits.

Article VIII.

Mexicans now established in territories previously belonging to Mexico, and which remain for the future within the limits of the United States, as defined by the present treaty, shall be free to continue where they now reside, or to remove at any time to the Mexican Republic, retaining the property which they possess in the said territories, or disposing thereof, and removing the proceeds wherever they please, without their being subjected, on this account, to any contribution, tax, or charge whatever.

Those who shall prefer to remain in the said territories may either retain the title and rights of Mexican citizens, or acquire those of citizens of the United States. But they shall be under the obligation to make their election within one year from the date of the exchange of ratifications of this treaty; and those who shall remain in the said territories after the expiration of that year, without having declared their intention to retain the character of Mexicans, shall be considered to have elected to become citizens of the United States.

In the said territories, property of every kind, now belonging to Mexicans not established there, shall be inviolably respected. The present owners, the heirs of these, and all Mexicans who may hereafter acquire said property by contract, shall enjoy with respect to it guarantees equally ample as if the same belonged to citizens of the United States.

Article IX.

The Mexicans who, in the territories aforesaid, shall not preserve the character of citizens of the Mexican

SACRAMENTO, CALIFORNIA, 1850

(From Gertrude Atherton's "California")

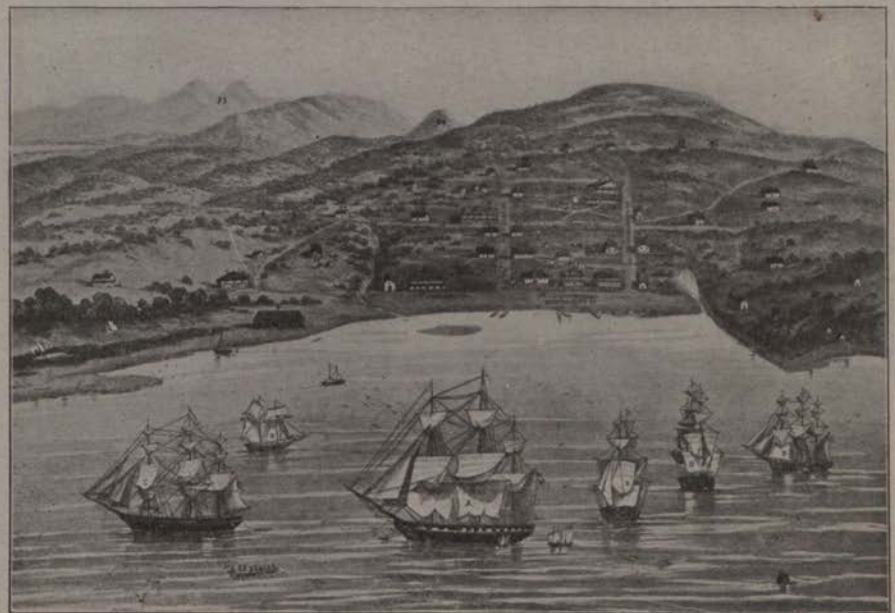
Republic, conformably with what is stipulated in the preceding article, shall be incorporated into the Union of the United States, and be admitted at the proper time (to be judged of by the Congress of the United States) to the enjoyment of all the rights of citizens of the United States, according to the principles of the Constitution; and in the mean time, shall be maintained and protected in the free enjoyment of their liberty and property, and secured in the free exercise of their religion without restriction.

. . . . . .

ARTICLE XII.

In consideration of the extension acquired by the boundaries of the United States, as defined in the fifth article of the present treaty, the Government of the United States engages to pay to that of the Mexican Republic the sum of fifteen millions of dollars.

Immediately after this treaty shall have been duly ratified by the Government of the Mexican Republic, the sum of three millions of dollars shall be paid to the said Government by that of the United States, at the city of Mexico, in the gold or silver coin of Mexico. The remaining twelve millions of dollars shall be paid at the same place, and in the same coin, in annual instalments of three millions of dollars each, together with interest on the same at the rate of six per centum per annum. This interest shall begin to run upon the whole sum of twelve millions from the day of the ratification of the present treaty by the Mexican Government, and the first of the instalments shall be paid at the expiration of one year from the same day. Together with each annual instalment, as it falls due, the whole interest accruing on such instalment from the beginning shall also be paid.



SAN FRANCISCO

(An authenticated picture of the city as it appeared in 1846–47. From Gertrude Atherton's "California")

ARTICLE XIII.

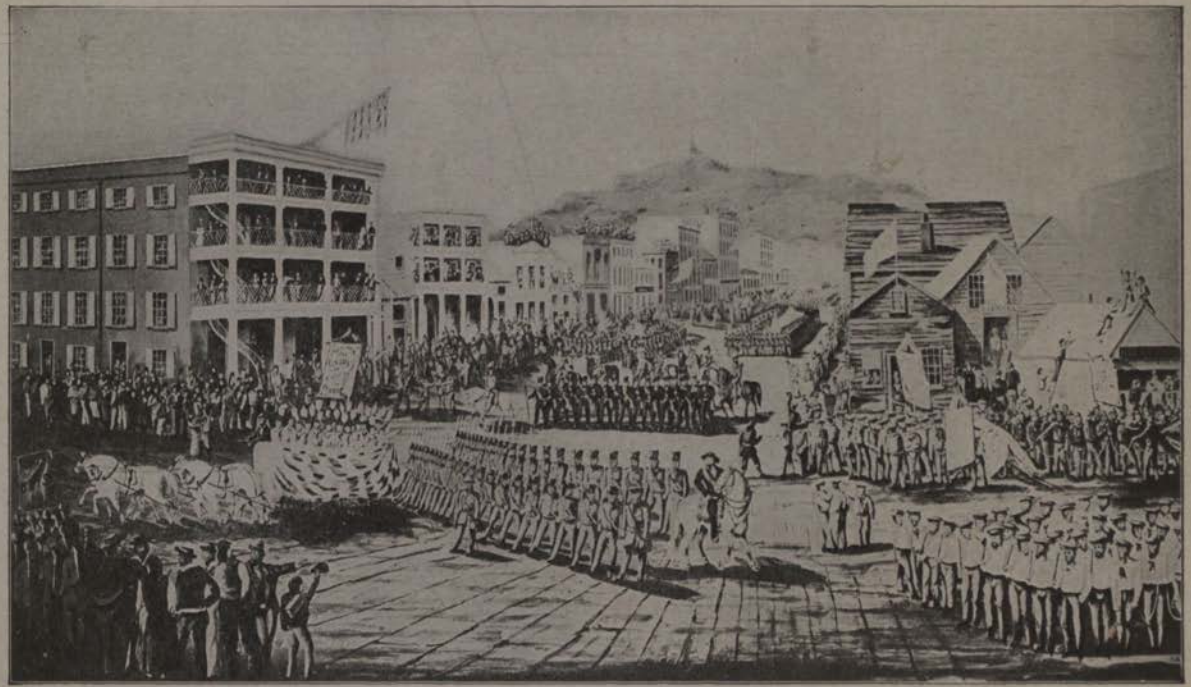
The United States engage, moreover, to assume and pay to the claimants all the amounts now due them, and those hereafter to become due, by reason of the claims already liquidated and decided against the Mexican Republic, under the conventions between the two republics severally concluded on the eleventh day of April, eighteen hundred and thirty-nine, and on the thirtieth day of January, eighteen hundred and forty-three; so that the Mexican Republic shall be absolutely exempt, for the future, from all expense whatever on account of the said claims.

ARTICLE XIV.

The United States do furthermore discharge the Mexican Republic from all claims of citizens of the United States, not heretofore decided against the Mexican Government, which may have arisen previously to the date of the signature of this treaty; which discharge shall be final and perpetual, whether the said claims be rejected or be allowed by the board of commissioners provided for in the following article, and whatever shall be the total amount of those allowed.

ARTICLE XV.

The United States, exonerating Mexico from all demands on account of the claims of their citizens mentioned in the preceding article, and considering them entirely and forever cancelled, whatever their amount may be, undertake to make satisfaction for the same, to an amount not exceeding three and one-quarter millions of dollars. . . .



FIRST ADMISSION-DAY CELEBRATION, 1850, CALIFORNIA AND MONTGOMERY STREETS

(From Gertrude Atherton's "California")

ARTICLE XVI.

Each of the contracting parties reserves to itself the entire right to fortify whatever point within its territory it may judge proper so to fortify for its security.

ARTICLE XVII.

The treaty of amity, commerce, and navigation, concluded at the city of Mexico on the fifth day of April A.D. 1831, between the United States of America and the United Mexican States, except the additional article, and except so far as the stipulations of the said treaty may be incompatible with any stipulation contained in the present treaty, is hereby revived for the period of eight years from the day of the exchange of ratifications of this treaty, with the same force and virtue as if incorporated therein; it being understood that each of the contracting parties reserves to itself the right, at any time after the said period of eight years shall have expired, to terminate the same by giving one year's notice of such intention to the other party.

. . . . . .

ARTICLE XXI.

If unhappily any disagreement should arise between the Governments of the two republics, whether with respect to the interpretation of any stipulation in this treaty, or with respect to any other particular concerning the political or commercial relations of the two nations, the said Governments, in the name of those nations, do promise to each other that they will endeavour, in the most sincere and earnest manner, to settle the differences so arising, and to preserve the state of peace and friendship in which the two countries are now placing themselves, using, for this end, mutual

representations and pacific negotiations. And if, by these means, they should not be enabled to come to an agreement, a resort shall not, on this account, be had to reprisals, aggression, or hostility of any kind, by the one republic against the other, until the Government of that which deems itself aggrieved shall have maturely considered, in the spirit of peace and good neighbourship, whether it would not be better that such difference should be settled by the arbitration of commissioners appointed on each side, or by that of a friendly nation. And should such course be proposed by either party, it shall be acceded to by the other, unless deemed by it altogether incompatible with the nature of the difference, or the circumstances of the case.

. . . . . .

Article XXIII.

This treaty shall be ratified by the President of the United States of America, by and with the advice and consent of the Senate thereof; and by the President of the Mexican Republic, with the previous approbation of its general Congress; and the ratifications shall be exchanged in the city of Washington, or at the seat of Government of Mexico, in four months from the date of the signature hereof, or sooner if practicable.

In faith whereof we, the respective Plenipotentiaries, have signed this treaty of peace, friendship, limits, and settlement, and have hereunto affixed our seals respectively. Done in quintuplicate, at the city of Guadalupe-Hidalgo, on the second day of February, in the year of our Lord one thousand eight hundred and forty-eight.

Abolition of the Slave Trade in the District of Columbia, 1850

The text of this enactment, approved September 20, 1850, is from "United States Statutes at Large," Vol. IX., pp. 467–468. (See page 78.)

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That from and after the first day of January, eighteen hundred and fifty-one, it shall not be lawful to bring into the District of Columbia any slave whatever, for the purpose of being sold, or for the purpose of being placed in depot, to be subsequently transferred to any other State or place to be sold as merchandize. And if any slave shall be brought into the said District by its owner, or by the authority or consent of its owner, contrary to the provisions of this act, such slave shall thereupon become liberated and free.

Sec. 2. *And be it further enacted,* That it shall and may be lawful for each of the corporations of the cities of Washington and Georgetown, from time to time, and as often as may be necessary, to abate, break up, and abolish any depot or place of confinement of slaves brought into the said District as merchandize, contrary to the provisions of this act, by such appropriate means as may appear to either of the said corporations expedient and proper. And the same power is hereby vested in the Levy Court of Washington county, if any attempt shall be made, within its jurisdictional limits, to establish a depot or place of confinement for slaves brought into the said District as merchandize for sale contrary to this act.

Clay's Compromise Resolutions, 1850

These resolutions, introduced in the Senate on January 29, 1850, by Henry Clay, were intended by him to prepare a way for settling differences of opinion concerning slavery in the Territories. They are important for their connection with the Fugitive Slave Act and the Abolition of the Slave Trade in the District of Columbia, both given on preceding pages. Text of resolutions from "Senate Journal," Thirty-first Congress, First Session, pp. 118–119. (See page 140.)

It being desirable, for the peace, concord, and harmony of the Union of these States, to settle and adjust amicably all existing questions of controversy between them arising out of the institution of slavery upon a fair, equitable, and just basis: therefore,

Resolved, That California, with suitable boundaries, ought, upon her application to be admitted as one of the States of this Union, without the imposition by Congress of any restriction in respect to the exclusion or introduction of slavery within those boundaries.

Resolved, That as slavery does not exist by law, and is not likely to be introduced into any of the territory acquired by the United States from the republic of Mexico, it is inexpedient for Congress to provide by law either for its introduction into, or exclusion from, any part of the said territory; and that appropriate territorial governments ought to be established by Congress in all of the said territory, not assigned as the

boundaries of the proposed State of California, without the adoption of any restriction or condition on the subject of slavery.

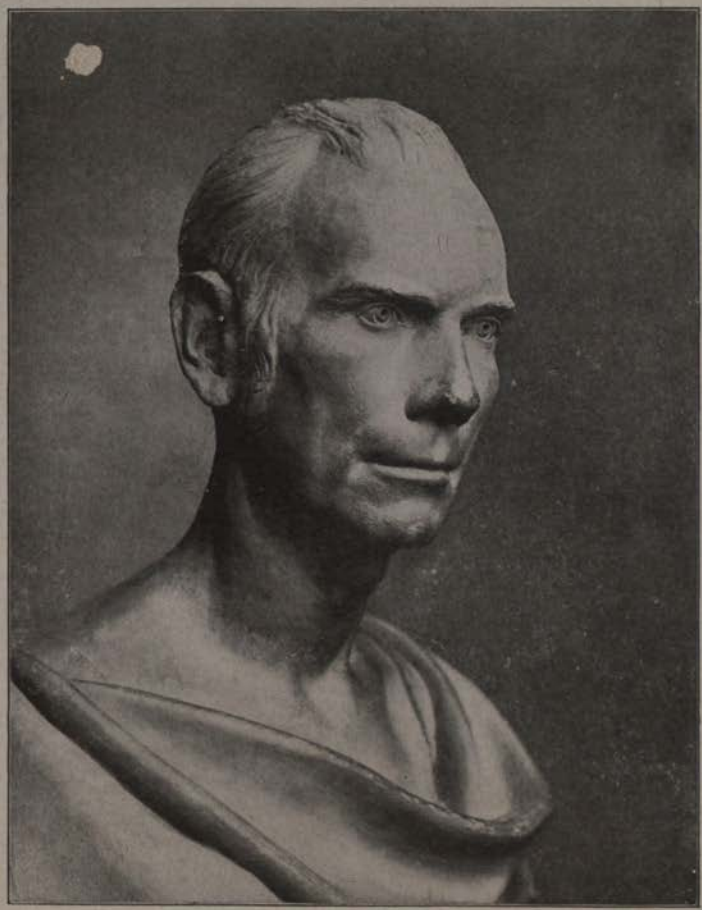
Resolved, That the western boundary of the State of Texas ought to be fixed on the Rio del Norte, commencing one marine league from its mouth, and running up that river to the southern line of New Mexico; thence with that line eastwardly, and so continuing in the same direction to the line as established between the United States and Spain, excluding any portion of New Mexico, whether lying on the east or west of that river.

Resolved, That it be proposed to the State of Texas, that the United States will provide for the payment of all that portion of the legitimate and *bona fide* public debt of that State contracted prior to its annexation to the United States, and for which the duties on foreign imports were pledged by the said State to its creditors, not exceeding the sum of ———— dollars,* in consideration of the said duties so pledged having been no longer applicable to that object after the said annexation, but having thenceforward become payable to the United States; and upon the condition, also, that the said State of Texas shall, by some solemn and authentic act of her Legislature or of a convention, relinquish to the United States any claim which it has to any part of New Mexico.

Resolved, That it is inexpedient to abolish slavery in the District of Columbia whilst that institution continues to exist in the State of Maryland, without the consent of that State, without the consent of the people of the District, and without just compensation to the owners of slaves within the District.

But, resolved, That it is expedient to prohibit, within the District, the slave trade in slaves brought into it from States or places beyond the limits of the District, either to be sold therein as merchandise, or to be

*Amount fixed at $10,000,000.



H. Clay

HENRY CLAY, 1825

(From the original life-mask bust by John H. I. Browere. Reproduced by permission of Charles Henry Hart, of Philadelphia, author of "Browere's Life Masks of Great Americans")

transported to other markets without the District of Columbia.

Resolved, That more effectual provision ought to be made by law, according to the requirement of the Constitution, for the restitution and delivery of persons bound to service or labor in any State, who may escape into any other State or Territory in the Union, and,

Resolved, That Congress has no power to prohibit or obstruct the trade in slaves between the slaveholding States; but that the admission or exclusion of slaves brought from one into another of them, depends exclusively upon their own particular laws.

Fugitive Slave Act, 1850

This enactment is entitled "An Act to amend, and supplementary to, the Act entitled 'An Act respecting Fugitives from Justice, and Persons escaping from the Service of their Masters,' approved February twelfth, one thousand seven hundred and ninety-three," and was approved September 18, 1850. The text of the most important provisions, here given, is from "United States Statutes at Large," Vol. IX., pp. 462–465. (See page 140.)

Sec. 5. *And be it further enacted,* That it shall be the duty of all marshals and deputy marshals to obey and execute all warrants and precepts issued under the provisions of this act, when to them directed; and should any marshal or deputy marshal refuse to receive such warrant, or other process, when tendered, or to use all proper means diligently to execute the same, he shall, on conviction thereof, be fined in the sum of one thousand dollars, to the use of such claimant, on the motion of such claimant, by the Circuit or District Court for the district of such marshal; and after arrest of such fugitive, by such marshal or his deputy, or whilst at any time in his custody under the provisions of this act, should such fugitive escape, whether with or without the assent of such marshal or his deputy, such marshal shall be liable, on his official bond, to be prosecuted for the benefit of such claimant, for the full value of the service or labor of said fugitive in the State, Territory, or District whence he escaped: and the better to enable

the said commissioners, when thus appointed, to execute their duties faithfully and efficiently, in conformity with the requirements of the Constitution of the United States and of this act, they are hereby authorized and empowered, within their counties respectively, to appoint, in writing under their hands, any one or more suitable persons, from time to time, to execute all such warrants and other process as may be issued by them in the lawful performance of their respective duties; with authority to such commissioners, or the persons to be appointed by them, to execute process as aforesaid, to summon and call to their aid the bystanders, or *posse comitatus* of the proper county, when necessary to ensure a faithful observance of the clause of the Constitution referred to, in conformity with the provisions of this act; and all good citizens are hereby commanded to aid and assist in the prompt and efficient execution of this law, whenever their services may be required, as aforesaid, for that purpose; and said warrants shall run, and be executed by said officers, any where in the State within which they are issued.

SEC. 6. *And be it further enacted*, That when a person held to service or labor in any State or Territory of the United States, has heretofore or shall hereafter escape into another State or Territory of the United States, the person or persons to whom such service or labor may be due, or his, or their agent or attorney, duly authorized, by power of attorney, in writing, acknowledged and certified under the seal of some legal officer or court of the State or Territory in which the same may be executed, may pursue and reclaim such fugitive person, either by procuring a warrant from some one of the courts, judges, or commissioners aforesaid, of the proper circuit, district, or county, for the apprehension of such fugitive from service or labor, or by seizing and arresting such fugitive, where the same can be done without process, and by taking, or causing such person to be taken, forth-

Very Respectfully
Howell Cobb

HOWELL COBB

(Speaker of the House of Representatives at this time (1849). He was elected over Robert C. Winthrop, of Massachusetts, after a long contest)

with before such court, judge, or commissioner, whose duty it shall be to hear and determine the case of such claimant in a summary manner; and upon satisfactory proof being made, by deposition or affidavit, in writing, to be taken and certified by such court, judge, or commissioner, or by other satisfactory testimony, duly taken and certified by some court, magistrate, justice of the peace, or other legal officer authorized to administer an oath and take depositions under the laws of the State or Territory from which such person owing service or labor may have escaped, with a certificate of such magistracy or other authority, as aforesaid, with the seal of the proper court or officer thereto attached, which seal shall be sufficient to establish the competency of the proof, and with proof, also by affidavit, of the identity of the person whose service or labor is claimed to be due as aforesaid, that the person so arrested does in fact owe service or labor to the person or persons claiming him or her, in the State or Territory from which such fugitive may have escaped as aforesaid, and that said person escaped, to make out and deliver to such claimant, his or her agent or attorney, a certificate setting forth the substantial facts as to the service or labor due from such fugitive to the claimant, and of his or her escape from the State or Territory in which he or she was arrested, with authority to such claimant, or his or her agent or attorney, to use such reasonable force and restraint as may be necessary, under the circumstances of the case, to take and remove such fugitive person back to the State or Territory whence he or she may have escaped as aforesaid. In no trial or hearing under this act shall the testimony of such alleged fugitive be admitted in evidence; and the certificates in this and the first [fourth] section mentioned, shall be conclusive of the right of the person or persons in whose favor granted, to remove such fugitive to the State or Territory from which he escaped, and shall prevent all

molestation of such person or persons by any process issued by any court, judge, magistrate, or other person whomsoever.

SEC. 7. *And be it further enacted*, That any person who shall knowingly and willingly obstruct, hinder, or prevent such claimant, his agent or attorney, or any person or persons lawfully assisting him, her, or them, from arresting such a fugitive from service or labor, either with or without process as aforesaid, or shall rescue or attempt to rescue, such fugitive from service or labor, from the custody of such claimant, his or her agent or attorney, or other person or persons lawfully assisting as aforesaid, when so arrested, pursuant to the authority herein given and declared; or shall aid, abet, or assist such person so owing service or labor as aforesaid, directly or indirectly, to escape from such claimant, his agent or attorney, or other person or persons legally authorized as aforesaid; or shall harbor or conceal such fugitive, so as to prevent the discovery and arrest of such person, after notice or knowledge of the fact that such person was a fugitive from service or labor as aforesaid, shall, for either of said offences, be subject to a fine not exceeding one thousand dollars, and imprisonment not exceeding six months, by indictment and conviction before the District Court of the United States for the district in which such offence may have been committed, or before the proper court of criminal jurisdiction, if committed within any one of the organized Territories of the United States; and shall moreover forfeit and pay, by way of civil damages to the party injured by such illegal conduct, the sum of one thousand dollars, for each fugitive so lost as aforesaid, to be recovered by action of debt, in any of the District or Territorial Courts aforesaid, within whose jurisdiction the said offence may have been committed.

. . . . . .

SEC. 9. *And be it further enacted*, That, upon affidavit

made by the claimant of such fugitive, his agent or attorney, after such certificate has been issued, that he has reason to apprehend that such fugitive will be rescued by force from his or their possession before he

JOHN PARKER HALE

(United States Senator from New Hampshire, 1847–53, and counsel, in 1851, in the trials which resulted from the forcible rescue of the fugitive slave, Shadrach, from the custody of the United States Marshal in Boston)

can be taken beyond the limits of the State in which the arrest is made, it shall be the duty of the officer making the arrest to retain such fugitive in his custody, and to remove him to the State whence he fled, and there to deliver him to said claimant, his agent, or attorney. And to this end, the officer aforesaid is hereby authorized and required to employ so many persons as he may deem necessary to overcome such force, and to

retain them in his service so long as circumstances may require. The said officer and his assistants, while so employed, to receive the same compensation, and to be allowed the same expenses, as are now allowed by law for transportation of criminals, to be certified by the judge of the district within which the arrest is made, and paid out of the treasury of the United States.

SEC. 10. *And be it further enacted*, That when any person held to service or labor in any State or Territory, or in the District of Columbia, shall escape therefrom, the party to whom such service or labor shall be due, his, her, or their agent or attorney, may apply to any court of record therein, or judge thereof in vacation, and make satisfactory proof to such court, or judge in vacation, of the escape aforesaid, and that the person escaping owed service or labor to such party. Whereupon the court shall cause a record to be made of the matters so proved, and also a general description of the person so escaping, with such convenient certainty as may be; and a transcript of such record, authenticated by the attestation of the clerk and of the seal of the said court, being produced in any other State, Territory, or district in which the person so escaping may be found, and being exhibited to any judge, commissioner, or other officer authorized by the law of the United States to cause persons escaping from service or labor to be delivered up, shall be held and taken to be full and conclusive evidence of the fact of escape, and that the service or labor of the person escaping is due to the party in such record mentioned. And upon the production by the said party of other and further evidence if necessary, either oral or by affidavit, in addition to what is contained in the said record of the identity of the person escaping, he or she shall be delivered up to the claimant. And the said court, commissioner, judge, or other person authorized by this act to grant certificates to claimants of fugitives, shall, upon the production of the record and

other evidences aforesaid, grant to such claimant a certificate of his right to take any such person identified and proved to be owing service or labor as aforesaid, which certificate shall authorize such claimant to seize or arrest and transport such person to the State or Territory from which he escaped: *Provided*, That nothing herein contained shall be construed as requiring the production of a transcript of such record as evidence as aforesaid. But in its absence the claim shall be heard and determined upon other satisfactory proofs, competent in law.

END OF VOL. VII

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